

T H E
Crown Circuit
COMPANION;

C O N T A I N I N G

The PRACTICE of the ASSISES on the CROWN SIDE, and of the Courts of General and General Quarter Sessions of the Peace :

Wherein (among other Things incident to the Practice of the CROWN LAW) is included,

A COLLECTION of Useful and Modern PRECEDENTS of INDICTMENTS in Criminal Cases; as well at COMMON LAW, as those created by STATUTE.

Under all

Which PRECEDENTS, so much of the COMMON and STATUTE LAWS is set forth, as at one View to shew the Circumstances that create the several Offences; the Offenders Punishment; and how, and in what Cases FELONS are to have, or not have the Benefit of CLERGY.

W I T H

References to the Printed AUTHORITIES, relating thereto.

By W. STUBBS, and G. TALMASH, of *Staples-Inn*, Gentlemen.

The Second Edition corrected: To which is added, *The Clerk of Assises Circuit Companion*, containing the Appointment of the several Officers attending the Circuit, their Duty, and the Fees usually taken by them; also many New Precedents of Indictments, and the Laws under their several Heads continued down to the present Time.

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PREFACE.

THE pressing and repeated Importunities of many of our Friends, (Gentlemen in the Practice of the LAW) have at Length prevailed upon Us to publish this Work; if it falls short of their Expectations, We hope they'll blame Themselves, and pardon Us; for we had no Intention to appear in Print, had not their frequent Assurances induced Us to believe Our Labour wou'd prove a public Benefit.

How Beneficial it may prove, depends intirely upon the Use and Trial of it; therefore We put ourselves upon our Country, and must abide by the Verdict of every unprejudiced and impartial Practicer.

What was chiefly requested, was only to publish Precedents of Indictments; but as the Laws relative to Matters indictable, are more than a Man can carry on his Back, 'tis not to be presumed he can easily bear them in his Head; therefore we have endeavoured to distinguish the various Facts, under the several and respective Precedents, by defining the Offences, and setting forth so much of the Common and Statute Laws, as at one View

P R E F A C E.

to demonstrate the Circumstances that create the different Crimes; the Delinquents Punishment; how Felons are within, or ousted of the Benefit of Clergy; and also how some Misdemeanors are aggrandized by late Statutes, and made Felonies. And to render this Book more useful, We have briefly shewn the Practice and Business of the Court of Assises on the Crown Side, and also of the General and General Quarter Sessions; the Appointment of the several Officers attending the Circuit, their Duty, and Fees usually taken by them, together with the Method of drawing up Records of Convictions, and Acquittals, and Variety of Certificates, incident to the Business of the Assises and Sessions of the Peace, and also of estreating forfeited Recognizances, and the Law of appointing the Custos Rotulorum and his Deputy, the Clerk of the Peace, and diverse other Matters, relating to the Crown Law; the whole of which is humbly left, and submitted to the Correction of every judicious Reader.

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OF THE
COURTS
ON THE
CIRCUIT.

AS Matters of Fact are triable by Juries of the respective Counties, wherein the Facts arise, it would be very inconvenient to compel the Juries and Parties upon all Occasions to attend on the King's Courts at *Westminster*: Therefore for the Ease of the Subject, Commissions are issued out twice every Year; some for trying only, others for trying and finally determining all Matters cognizable by Virtue of such Commissions, arising in each respective County.

The Progress of the Judges under these Commissions, is commonly called the Circuit, and the Court held by Virtue of them, is vulgarly called the Assises from one of the Commissions they were generally armed with; which originally only concerned Titles to Land, though by several Statutes the Justices of Assise have Cognizance of certain
B criminal

criminal Matters ; but their principal and most extensive Authority in those Cases is by Virtue of the Commission of Oyer and Terminer, and Commission of Gaol-Delivery.

The *Circuits* in *England* are six, viz. the *Northern*, the *Western*, the *Oxford*, the *Norfolk*, the *Midland*, and the *Home Circuit*. The *Circuits* for *Wales* are two, viz. one for *North*, and another for *South Wales* ; for each of which,

By the Stat. 18 Eliz. cap. 8. *The King may appoint two Persons Learned in the Laws, to be Judges in each of the Welch Circuits, which had but one Justice before, and grant Commissions of Association, &c.* (See Stat. 34 & 35 H. 8. c. 26.)

The Judges are to be attended by the Sheriff of each County, and his under Officers, &c. If he is absent, or negligent in his Duty, the Judges may fine him.

The Judges on *Circuits* sit by Virtue of five several Commissions:

- I. *A Commission of Oyer and Terminer.*
- II. *A Commission of General Gaol-Delivery.*
- III. *A Commission of ASSISE.*
- IV. *A Commission, or Writ of Nisi Prius.*
- V. *A Commission of the Peace in every County of their Circuit.*

A Commission is a Delegation by Virtue of the Common Law, or of an Act of Parliament, whereby Jurisdiction, Power, and Authority is confer'd on others.

The Commission of *Oyer and Terminer* is directed to the Judges, and several Gentlemen of the County; but the Judges are to be of the *Quorum*; so as the rest cannot act without them. (See Stat. 2 Ed. 3. c. 3.) By Virtue of this Commission they have Power to hear and determine Treasons, and all Manner of Felonies and Misdemeanors.

This is the largest Commission they have; but they cannot proceed, but upon Indictments taken before themselves, unless they have a Commission of Gaol-Delivery too; for the Authority given of Commissions of *Oyer and Terminer* is, *to hear and determine*.

The Commission of General Gaol-Delivery is directed only to the Judges themselves, and the Clerk of Assize Associate; by Virtue of this Commission they have Power to try every Prisoner in the Gaol, committed for any Offence whatsoever; but none but Prisoners in the Gaol; so that one Way or other they rid the Gaol of all the Prisoners. They proceed upon Indictments taken before Justices of the Peace at their Quarter-Sessions (of Grand Larcenies, &c. and other high Offences, not proper to be trusted to the Determination of Country Magistrates) as well as upon Indictments taken before themselves.

By the Stat. 8 R. 2. c. 2. it was enacted, 1385
that no Men of the Law should from thenceforth be Justice of Assize, or of the common Deliverance of Gaols in his own County.
And by the Stat. 33 H. 8. c. 24. it was enacted, 1542

1739. ed, that no Justice, or other Man Learned in the Law, should exercise the Office of Justice of Assise within any County, where he was born or inhabited, upon Pain to forfeit 100 *l.* But these Statutes having been construed to extend not only to Justices of Assise and Justices of Gaol-Delivery, but also to Justices of *Nisi Prius*, and Justices of *Oyer and Terminer*; which Construction being attended with great Inconveniencies, it was by the *Stat. 12 Geo. 2. c. 27.* enacted, that it should be lawful for the Chief Justice and Justices of either Bench, and the Chief Baron, and other Barons of the Court of Exchequer, and any other Person or Persons learned in the Law, who should be appointed Justice or Justices of *Oyer and Terminer*, or Gaol-Delivery, in any County or Counties in *England*, to exercise the Office or Offices of Justice or Justices of *Oyer and Terminer* or Gaol-Delivery, in any such County or Counties; notwithstanding They, or any of Them, shall have been born or do inhabit within such County or Counties, and that they shall not be liable, for so doing, to the said Penalty of 100 *l.* or any other Penalty whatsoever.

All the Justices of the Peace of that County where the Judges have their Assises, are bound to be present, and if they make Default, without lawful Impediment, the Judges may set a Fine upon them for their Neglect.

If Justices sit by Force of a Commission, and do not adjourn the Commission, it is deter-

terminated. Those that sit by Virtue of a Commission are not counter-manded by any new Commission, unless the new Commission be shewed unto them, or proclaimed in the County, or unless the new Commissioners do sit by Force of the new Commission. (See the Stat. 2 & 3 Ph. & M. c. 18.)

By the Stat. 1 Ann. Stat. 1. c. 8. No Commission of Assise, Oyer and Terminer, General Gaol-Delivery, or Association, Writ of Si non omnes, or Assistance, or Commission of the Peace, shall be determined by Death of the King, but shall continue six Months, unless superseded, &c. (See Stat. 7 & 8 W. 3. c. 27.)

See Stat. 14 H. 6. c. 3. for holding the Assises at Carlisle for the County of Cumberland, Stat. 1 Geo. 1. c. 45. for holding the Assises for the County of Cornwall, and Stat. 21 Geo. 2. for holding the Assises at Buckingham.

The Judges of Assise, by Virtue of their Commissions of Oyer and Terminer, and General Gaol-Delivery, make out Precepts under their Seals, directed to the Sheriffs of each County, for the respective Purposes therein contained, which Precepts are delivered to every Sheriff, at least fifteen Days before the Return of the same; the Forms of which Precepts are as follow :

Precept for the Oyer and Terminer.

Kent. **S**IR *Michael Foster*, Kt. one of the Justices of our Lord the King, assigned to hold Pleas before the King himself, and *Edward Clive*, Esq; one of the Barons of his Majesty's Court of *Exchequer*, Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under the Great Seal of *Great Britain*, to us and others, and any two of us, made to inquire more fully the Truth, by the Oaths of good and lawful Men of the County of *Kent*, and by other Ways, Means and Methods, by which we shall or may better know (as well within Liberties as without) by whom the Truth of the Matter may be better known and inquired into, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeitings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms and Dominions whatsoever; and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, and Conventicles, unlawful uttering of Words, Assemblies, Misprisions, Confederacies, False Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenance, Oppressions, Champerty, Deceits, and all other evil Doings, Offences and Injuries whatsoever; and also the Accessaries of them, within the
County

County aforesaid (as well within Liberties as without) by whomsoever, and in what Manner soever done, committed or perpetrated, and by what Person or Persons, to what Person or Persons, when, how, and after what Manner; and of all other Articles and Circumstances concerning the Premises, and every of them, or any one or more of them, in any Manner whatsoever; and the said Treasons, and other the Premises according to the Laws and Customs of *England*, for this Time to hear and determine, *To the Sberiff* of the County aforesaid, greeting. On the Behalf of our said Lord the King, we command you, that you omit not for any Liberty within your Bailiwick, but that you cause to come before us and others our Fellow Justices aforesaid, or any two or more of us, at *Maidstone*, in the said County, on *Monday* the Day of *March* next ensuing, twenty-four, as well Knights as other good and lawful Men of your Bailiwick, to do and receive all those Things, which on the Behalf of our said Lord the King shall be then and there enjoined them; and that you yourself, and your Under-Sheriff be then and there in your Persons, together with your Bailiffs and other your Ministers, to do those Things which to your and their Offices appertain in this Behalf to be done; and that you have then and there the Names of the Jurors, and this Precept. Dated under our Hands and Seals at *Westminster*, the

Day of *February* in the

Year of
the

the Reign of our Sovereign Lord *George the Second*, King of *Great Britain, France* and *Ireland*, Defender of the Faith, &c.

Precept for the Gaol-Delivery.

Kent. **S**IR *Michael Foster*, Kt. one of the Justices of our Lord the King, assigned to hold Pleas before the King himself, and *Edward Clive*, Esq; one of the Barons of His Majesty's Court of *Exchequer*, Justices of our said Lord the King, assigned to take all the Affises, Juries, and Certificates, before whatsoever Justices arraigned, as well by diverse Writs of the Lady *Anne*, first of *England*, &c. and afterwards of *Great Britain*, &c. late Queen, and also by diverse Writs of our Lord *George the First*, late King of *Great Britain*, &c. as by diverse Writs of our now Lord the King, in the County of *Kent*, To the Sheriff of the said County greeting. On Behalf of our said now Lord the King, we Command you, that you omit not for any Liberty in your Bailiwick; but that you cause to come before us at *Maidstone* in the said County, on *Monday* the Day of *March* next ensuing, all Writs of Affise, Juries, and Certificates, before whatsoever Justices arraigned, as well by diverse Writs of the Lady *Anne*, first of *England*, &c. and afterwards of *Great Britain*, &c. late Queen, and also by diverse Writs of our Lord *George the First*, late King of *Great Britain*, &c. as by

by diverse Writs of our said now Lord the King, in your County; together with the Panels, Attachments, Re-attachments, Summons, Re-summons, and all other *Minu-ments* whatsoever, any ways concerning those Affises, Juries, and Certificates; *provided al-ways*, that the Attachments, Re-attachments, Summons, and Re-summons thereof, be made fifteen Days before the said *Monday*. And also that you cause to come before the said Sir *Michael Foster*, Kt. and *Edward Clive*, Esq; Justices of our said now Lord the King, assigned to deliver his Gaol of the County aforesaid of the Prisoners therein being, at the Day and Place aforesaid, all the Prisoners being in the said Gaol, together with their Attachments, Indictments, and all other Minuments any ways concerning those Prisoners, and of the *Venue* of every Town and Place where the Felonies were committed, whereof the said Prisoners are indicted, appealed, or arrested, as well within Liberties as without, twenty and four, as well Knights, as other good and lawful Men of every Hundred in the said County, by whom the Truth of the Matter may be the better known and inquired into, and who have no Affinity to those Prisoners; together with four selected Men of those Towns and Places, to do those Things, which on the Behalf of our said now Lord the King shall be then and there enjoined them. *Publicly* also cause to be proclaimed throughout your whole Bailiwick, That all they, who will

Pro-

Prosecute against those Prisoners, be then and there to prosecute against them, as shali be just. *Give Notice also* to all Justices of the Peace, Mayors, Coroners, Escheators, Stewards, and also all Chief Constables and Bailiffs of every Hundred and Liberty within your County, that they be then and there in their own Persons, with their Rolls, Records, Indictments, and other Remembrances, to do those Things which to their Offices in that Behalf appertain to be done: And that you yourself and your Under-Sheriff, together with your Bailiffs and other your Ministers, be then and there, in your own Persons, to do those Things which to your and their Offices appertain in this Behalf to be done. And have you then and there the Names of the Jurors, Justices of the Peace, Mayors, Coroners, Escheators, Stewards, Bailiffs, Chief Constables, and of them whom you shall so cause to come, before whom, and by whom you shall so cause to come. And that you also then and there have this Precept. Dated at *Westminster* the 12th Day of *February* in the Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, *France* and *Ireland*, Defender of the Faith, &c.

THE
Practice and Proceedings
AT THE
ASSISES
ON THE
CROWN SIDE.

WHEN the Judges first come into the Court, the Crier makes the following Proclamation*, O yes, O yes, O yes: *My Lords, the King's Justices, do strictly Charge and Command all Manner of Persons to keep Silence while the King's Commissions of Assise and Nisi Prius, Oyer and Terminer, and General Gaol-Delivery for this County of Berks, are openly read, upon Pain of Imprisonment.*

* This is really the *French* Word *Oyez*, from *Oïr*, to hear; it is pronounced three Times before all Proclamations, and the Use of it is to bid the People hear and observe what the Officer is about to say.

Then

12 *The Practice at the Assises*

Then the Clerk of the Assise, or the Clerk of the Arraignment, reads the several Commissions before-mentioned.

After the Commissions have been read, the Crier says to the Sheriff thus; *Sheriff of the County of D. return the several Precepts and Writs of Assise and Nisi Prius, to you directed and returnable here this Day, that my Lords, the King's Justices, may proceed thereon;* which the Sheriff does accordingly.

Then the Clerk of Assise calls the *Nomina Ministrorum*, namely, the Justices of the Peace, Coroners, Stewards, Bailiffs, Constables, &c.

And then the Grand Jury are called in order, every one by his Name, and when they appear, they are sworn by the Marshal.

The Foreman, by himself, lays his Hand on the Book, and the Marshal administers to him the following Oath.

You, as Foreman of this Inquest, shall diligently inquire, and true Presentment make, of all such Matters and Things as shall be given you in Charge: The King's Counsel, your Fellows, and your own, you shall keep secret: You shall Present no Man for Envy, Hatred, or Malice; neither shall you leave any Man Unpresented for Fear, Favour, or Affection, or Hope of Reward; but you shall Present all Things truly as they come to your Knowledge, according to the best of your Understanding: So Help you God.

The

The Rest of the Grand Jury, by Three at a Time, in Order, are sworn in the following Manner.

The same Oath which your Foreman hath taken, on his Part, you, and every of you, shall well and truly observe and keep on your Part : So Help you God.

Then Proclamation is made to keep Silence while the Judge gives his Charge to the Grand Jury.

This is the most Part of the Business of the Morning of the first Day.

The Clerk of the Assise, or his Officer the Clerk of the Arraignment, Files all Recognizances, &c. deliver'd by the Justices in Court; such as are to prosecute upon one File, and such as are to answer upon another; and receives all the Informations and Examinations that have been taken by the Justices of the Peace, &c.

In the Afternoon, the Court sends for the Grand Jury, and when they appear, the Clerk of Assise calls them severally by their Names, and says, *Gentlemen, have you agreed upon any Bills*; and the Clerk of Assise bids them Present them to the Court; and upon the Delivery of them he saith :

You are content the Court shall amend Form and false English, altering no Matter of Substance, without your Privy, in those Bills you have found.

The Grand Jury say, *Yes*; and return to their Business again, viz. examining other Bills.

14 *The Practice at the Assises*

Then the Court proceeds to arraign such Prisoners as are indicted, in the Manner following:

The Clerk of the Arraigns says, *A. B. hold up your Hand: Thou standest indicted by the Name of A. B. late of, &c. for that thou, &c. so reads the Indictment through, and then asks the Prisoner, Art thou Guilty or Not? If he says, Not Guilty; then the Clerk of Arraigns says, How wilt thou be tried? If he says, By God and the Country; then the Clerk says, God send you a good Deliverance, and then writes over the Prisoner's Name, on the Indictment, (pu. se.) which signifies, that he puts himself upon the Country; so proceeds to the next, until so many are arraigned, as will serve for a Petty Jury to pass upon at once.*

If upon Arraignment a Prisoner pleads *Guilty*, then the Clerk of the Arraigns writes over the Name, on the Indictment, (*confesses*) and the Prisoner is set aside 'till the Time of giving Judgment.

When a sufficient Number of Prisoners are arraigned to be tried by a Petty Jury, then the Clerk of the Arraigns calls the Jury thus; *You good Men that are impanelled to inquire between our Sovereign Lord the King and the Prisoners at the Bar, answer to your Names, upon Pain and Peril that shall fall thereon.*

When the Jurors have appeared, then the Clerk of the Arraigns calls the Prisoners to the Bar, that are to be tried by the Jury, and
says

says unto them thus; *These good Men that were last called, and have appeared, are those that shall pass between our Sovereign Lord the King and you, upon your several Lives and Deaths; if therefore you, or any of you, will challenge them, or any of them, you may challenge them as they come to the Book to be sworn, before they are sworn, and you shall be heard.*

Then the Crier makes Proclamation, and says; *If any Man can inform my Lords the King's Justices, the King's Serjeant, or the King's Attorney, or this Inquest to be taken between our Sovereign Lord the King and the Prisoners at the Bar, of any Treason, Murder, Felony, or other Misdemeanor, committed or done by them, or any of them, let them come forth, and they shall be heard; the Prisoners stand at the Bar upon their Deliverance.*

Then the Clerk calls the Jury to be Sworn every Man severally, and the Marshal swears them all in this Manner;

You shall well and truly try, and true Deliverance make, between our Sovereign Lord the King and the Prisoners at the Bar, whom you shall have in Charge, and a true Verdict give according to your Evidence; so help you God.

Then the Crier counts the Jurors; as the Clerk of Arraignment reads their Names, and asks them if they are all sworn.

Then the Clerk of the Arraignment calls the Prisoner named in the first Indictment, to
the

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the Bar, and bids him hold up his Hand, and then says to the Jury;

Look upon the Prisoner, you that are sworn, andarken to his Charge.

A. B. *stands indicted by the Name of A. B. &c.* (reading the whole Indictment as he did upon the Arraignment) and then says; *Upon this Indictment he hath been arraigned; upon his Arraignment he hath pleaded Not Guilty; and for his Trial hath put himself upon God and the Country, which Country you are; so that your Charge is to inquire, whether he be guilty of this Felony, whereof he stands indicted, or not guilty; if you find him guilty, you shall inquire what Lands, Tenements, Goods, and Chattels he had at the Time of the Felony committed, or at any Time since; if you find him not guilty, then you shall inquire if he did fly for it, or not; if you find he did fly for it, then you shall inquire what Goods and Chattels he had, at the Time when he did fly for it, or at any Time since; if you find him Not guilty, and that he did not fly for it; say so, and no more, and hear your Evidence.*

And then the Court proceeds to examine the Witnesses, upon Oath, as well for the King as for the Prisoner.

The Proceedings against the rest of the Prisoners are the same, with this Difference only, *viz.*

The Clerk of Arraignment, after having read over the Indictment, says; *Upon this Indictment he hath been arraigned. Upon this Arraignment*

raignment he pleaded Not Guilty; and for his Trial hath put himself upon God and his Country, which Country you are, so that your Charge is to inquire, whether he be guilty of this Felony whereof he stands indicted, or not guilty? And farther to inquire of him, as you had in Charge to inquire of the former Prisoner, and bear your Evidence.

Then the Witnesses are called, sworn and examined as before.

When the Jury are agreed on the Verdict, the Clerk of Arraignment calls them by their Names, and asks them *if they are agreed on their Verdict, and who shall say for them*, and calls the first Prisoner to the Bar, and bids him *hold up his Hand*. Then says to the Jury; *Look upon the Prisoner; you that are sworn, what say you, is he guilty of the Felony whereof he stands indicted, or not guilty?* If they say *Guilty*, then the Clerk asks them, *what Lands or Tenements, Goods or Chattels, he (the Prisoner) had at the Time of the Felony committed, or at any Time since*. The Jury's common Answer is, *None to our Knowledge*. When the Jury say *Not Guilty*, then the Clerk asks if he (the Prisoner) *did fly for it, or not*. If they find a Flight, it is recorded; but their common Answer is, *not to our Knowledge*.

And so the Clerk of Arraignment proceeds to every Prisoner particularly, which the Jury hath in Charge, writing after the Words (*pu se*) over the several Names of the Prisoners,

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soners, *Guilty*, or *Not Guilty*, as the Verdict is, and then says to the Jury, *Harken to your Verdict, as the Court recordeth it*; and then he repeateth it in this Manner; *You say A. B. is guilty of the Felony whereof he stands indicted; and that he hath no Goods nor Chattels. That C. D. is not guilty; and so of the Rest; and then concludes; And so you say all.*

Note, That in all Indictments for Trespasses and Misdemeanors (under the Degree of Felony) the Parties indicted are either in Prison, or bound to appear by Recognizance; upon their Appearance, are not to be tried till after the Felons.

When the Grand Jury is discharged, such Persons, in Gaol, that are not indicted, and such as are, but the Bills not found to be true, are delivered by Proclamation; and such Persons that are bound to appear to answer, and no Prosecution exhibited against them, are discharged of their Recognizances.

Note; One of the Clerks belonging to the Clerk of Assise, that keeps the Gaol Book, in the Beginning of the Assises, sets down in the Book a Note of the Day, when the Assises are holden, and the Judges Names, under which he sets down the Prisoners Names, as they are returned by the Sheriff in the Calendar, beginning with the Reprieves, formerly left in Gaol, if any, and the Rest in Order, leaving a reasonable Distance betwixt every Name; and also of all Bails, for which Recognizances are returned by the Justices.

When

When any Indictment is found against any Prisoner, and he arraigned thereupon, the Clerk sets down briefly the Offence, at the End of the Name; and enters after Trial, the Plea and Verdict, as wrote on the Indictment;

And enters all Orders made in Court, for Continuance of any Man in Prison, or sending any to the House of Correction. All Fines set upon Prisoners, for Trespasses, &c. All Defaults upon Recognizances to answer, and all Submissions, &c.

The Clerk of Assise makes four Calendars of the Delivery of the Gaol; of the Names of such as are to suffer Death; such as were burnt in the Hand; such as are to be transported; such as are to be whipt; and so on according to the several Judgments; one of which Calendars is signed by the Judge, and delivered to the Clerk of Assise; one other is signed by the Clerk of Assise, and delivered to the Judge; the third is signed by the Clerk of Assise, and delivered to the Sheriff; and the fourth to the Gaoler.

Before a Defendant can be tried on any Traverse at the Assises, he must first go to the Clerk of the Assise, and take out a Copy of the Proceedings, drawn up of Record, for which he pays so much *per* Sheet; and must also sue out a *Venire* with the Clerk of the Assise. And, *Note also*, if any *Subpoena's* are wanting, the Clerk of Assise grants them.

When you have obtain'd your *Venire*, you must carry it to the under Sheriff, who will

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return a Jury, and then you must enter your Traverse with the Judge's Marshal.

If a Defendant can be prepared, and is minded to try an Indictment against him at the same Assises, 'tis prefer'd upon paying for a Copy of the Proceedings, and entering the Traverse as above-mentioned, and then he may go on.

Every Defendant indicted for a Misdemeanor, should give full eight Days Notice of Trial to the Prosecutor, before the Assises.

All *Certiorari's* brought by Prosecutors or Defendants, to remove Indictments, are allowed by the Clerk of the Assise, who returns them into the *Crown Office*, where the Record is made up for Trial, by the proper Clerk of the County, and sent down to the next Assises, to be tried on the *Nisi Prius* Side.

The BUSINESS after the ASSISES.

The Clerk of Assise puts all such Persons into Process, who were indicted or presented at the last Assises, and did not appear and plead, and enters their Names in a Process Book.

He ingrosses the Process upon Parchment, and delivers them to the Sheriff, in convenient Time after the End of the Assises, that the Sheriff may have sufficient Time to execute the same.

Note;

Note ; The Process are in Felony, &c.

1. *A Capias*
2. *An Alias Capias*
3. *An Exigent.*

In Misdemeanors, 1. *A Venire*
2. *A Capias*
3. *An Alias Capias*
4. *A Pluries.*

Where the Inhabitants of a Parish are indicted, or presented, the Process is,

1. *A Venire*
2. *A Distringas.*

The Clerk of Assise also enters all Traverses upon Rolls of Parchment, and makes a Copy for the Defendants, who pay for it.

And twice a Year (pursuant to the *Stat. 22 & 23 Car. 2. c. 22.*) the Clerk of Assise carries the Estreats into the *Exchequer*, of all Fines, Issues, Amerciaments, and forfeited Recognizances; set, imposed, or forfeited at the Assises.

He makes Copies of Indictments, Records of Convictions, and Acquittals, &c.

The Clerk of Assise (after the Assises) upon Application makes out Certificates of Persons indicted, upon which any one of the Judges of the Court of *King's Bench*, or any Justice of the Peace of the proper County, will grant Warrants for apprehending the Parties, and will oblige them to enter into

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Recognizance to answer, or, for want of Sureties, will commit them.

The Clerk of the Assise makes out all Certificates of Convictions for Robbery on the Highway, Burglary, &c. and attends the Judge who tried the Prisoners with the Prosecutors and the several Claimants, to settle the Reward, and also makes out Certificates to exempt the Prosecutors of Burglars, Horse-Stealers, Robbers of Shops, Warehouses, Coach-Houses, and Stables from serving Parish Offices, which Certificate is signed by the Judge, and inrolled in the Clerk of Assise's Office. The Clerk of Assise makes out (when required) diverse other Certificates, &c. relative to the Records, and Matters in his Office unnecessary to be here inserted.

A Certificate of a Judge of Assise, to intitle the Apprehenders of a House-Breaker, to forty Pounds Reward for Apprehension, &c.

TH E S E are to certify, That at the General Gaol-Delivery, holden at *Kingston upon Thames*, in and for the County of *Surry*, on *Thursday* the Day of this Instant *March*, before me *Thomas Burnet, Esq;* one of the Justices of his Majesty's Court of *Common Pleas*, and others his Majesty's Justices, assigned to deliver the Gaol of the County aforesaid of the Prisoners therein being, *John Mills* was convicted of Felony and Burglary, in breaking and entering the Dwelling-

Dwelling-House of *T. N.* in the Night-Time, of the thirty-first Day of *December* last, at the Parish of in the County aforesaid, and stealing thereout two Guineas and twenty-two Shillings in Monies numbred, of the Monies of the said *T. N.* and that *T. N. J. S. R. B. J. W.* and *W. S.* did apprehend and take the said *J. Mills*, and did prosecute him so apprehended and taken, until he was convicted of the Felony and Burglary aforesaid; and I do hereby direct and appoint the Sheriff of the County of *Surry* aforesaid, to pay unto and amongst the said *T. N. J. S. R. B. J. W.* and *W. S.* the Sum of forty Pounds in Manner following, that is to say, unto the said *T. N.* the Sum of fifteen Pounds; unto the said *J. S.* the Sum of two Pounds and ten Shillings; unto the said *R. B.* the Sum of two Pounds and ten Shillings; unto the said *J. W.* the Sum of ten Pounds; and unto the said *W. S.* the Sum of ten Pounds, for the Apprehension and Conviction aforesaid, pursuant to an Act of Parliament made in the fifth Year of the Reign of her late Majesty *Queen Anne*, intituled, *An Act for the encouraging the Discovery and Apprehending of House-Breakers*, dated the twenty-fifth Day of *March* in the Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, France, and Ireland*, Defender of Faith, &c. and in the Year of our Lord One thousand seven hundred and

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By the Statute 5 Ann. c. 31. Every Person who shall take any one guilty of Burglary, or the felonious breaking and entring of any House in the Day-Time, and prosecute them unto Conviction, shall receive above the * Reward given by the 10 & 11 W. 3. c. 23. the Sum of forty Pounds, within one Month after such Conviction, to be paid by the Sheriff of the County where the Felony was done, without any Fee, upon tendring a Certificate under the Hand of the Judge, before whom the Conviction was, certifying the Conviction, and in what Parish the Felony was committed, and the Taking by the Person claiming the Reward, to be divided as to him, &c. shall seem just: And if the Sheriff shall die, or be removed, in one Month after Demand, and Non-Payment, then the succeeding Sheriff shall pay the same in one Month after Demand, and Certificate brought; and the Sheriff making Default, shall forfeit to the Person or Persons to whom such Money is due, double the Money, to be recovered in any of the Courts of Record at Westminster, by Action of Debt, Bill, or Information, with treble Costs.

In Case any Person shall be killed by such House-Breaker, endeavouring to apprehend him, then the Executors or Administrators, or Person to whom the Right of Administration shall belong, upon Certificate delivered, under the Hand and Seal of the Judge of Assise of the

* *Vide* Certificate for Burglary in the Practice of Session hereafter.

County where the Fact was done, or the two next Justices of the Peace, of the Person's being so killed, shall receive forty Pounds from the Sheriff where the Fact was done, and upon Failure of Payment, double the forty Pounds to be recovered with treble Costs as aforesaid.

The Judge, before whom such Felons and House-Breakers shall be convicted, shall settle the Rights and Shares of Persons intitled to Certificates, and deliver the Certificates without Fee before the End of such Assises or Sessions, wherein such Conviction shall be had.

Note; A Reward of forty Pounds is allowed by the Stat. 4 & 5 W. & M. c. 8. for apprehending a Highwayman, recoverable in the same Manner as above-mentioned, for apprehending House-Breakers; and the Executors, &c. of Persons killed in endeavouring to apprehend Highwaymen, are intitled to forty Pounds in Manner above also mentioned; and the Apprehender shall have the Highwayman's Horse, Furniture, Arms, Money, and other Goods taken upon him, provided not to deprive any Person of his Right, from whom before the same were feloniously stolen. *Vide Title Robbery.*

Note; The Certificate may be formed from the above Certificate, *Mutatis Mutandis*, specifying the Offence, and inserting the Title of the Act.

Note also, that a Reward of one hundred Pounds (over and beside the forty Pounds allowed by the Statute) is given (by Proclamation)

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tion) to the Captors of a Highwayman, who shall commit a Robbery within five Miles of *London*, payable out of the Treasury.

A Record of Acquittal on an Indictment for Felony at the Assises.

Derby. **B**E it remembred, That at the Session of Oyer and Terminer of our Sovereign Lord the King, holden for the County of *Derby*, at *Derby* in the same County, on *Saturday*, to wit, on the Day of in the Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, before Sir *John Willes*, Kt. Chief Justice of our said Lord the King, of the Court of *Common Pleas*, *Thomas Dennison*, Esq; one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself; *Richard Eadnell*, Gent. and others their Fellows, Justices of our said Lord the King, by Letters Patent of our said Lord the King, under the Great Seal of *Great Britain*, to them the aforesaid Justices, and others, and any two or more of them made (whereof one of them, the said Sir *John Willes*, or *Thomas Dennison*, among others in the said Letters Patent named, our said Lord the King would should be one) to inquire by the Oath of good and lawful Men of the County aforesaid, and by other Ways, Means, and Methods, by which they might better know, or be able to know as well
within

within Liberties as without, by which the Truth of the Matter might be better known and inquired into, of whatsoever Treasons, Misprisions of Treason, Insurrections, Rebellions, Counterfeiting, Clippings, Washings, false Coinings, and other Falsifyings of the Money of *Great Britain*, and other Kingdoms and Dominions whatsoever, and of whatsoever Murders, Felonies, Man slaughters, Killings, Burglaries, Rapes of Women, Assemblies, and Conventicles, unlawful uttering of Words, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenance, Oppressions, Champarties, Deceits, and other Misdeeds, Offences, and Injuries whatsoever, and also the Accessaries of them within the County aforesaid, as well within Liberties as without, by whomsoever and howsoever had, done, and committed or perpetrated, and by what, or by which, to whom or by whom, when, how, and after what Manner, and of other Articles, and Circumstances, the Premises, and every of them, or any one of them, or any whatsoever concerning the full Truth, and the said Treasons, and other the Premises for this Time to hear and determine according to the Laws and Customs of *England*, by the Oath of (*Here insert all the Names of the Grand Jury*) good and lawful Men of the County aforesaid, then and there sworn and charged to inquire for our said Lord the King,
for

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for the Body of the County aforesaid; it is presented in Manner and Form following: (that is to say) *Derby*, The Jurors for our Lord the King upon their Oath present, That *A. B.* (*so insert the whole Indictment*) Whereupon the Sheriff of the said County of *Derby* is commanded not to forbear, for any Liberty in his Bailwick, but that he take the said *A. B.* to answer, &c. which said Indictment, the said Justices of our said Lord the King abovenamed, afterwards, to wit, at the Delivery of the Gaol of our said Lord the King, of his County of *Derby*, holden at *Derby* aforesaid in and for the same County, on ——— to wit the ——— Day of ——— in the said ——— Year of the Reign of our said Lord the King, before *Edward Clive*, Esq; one of the Barons of the *Exchequer* of our said Lord the King, *Thomas Blencowe*, Esq; and *Josia Hodgson*, Gent. and others their Fellows, Justices of our said Lord the King, assigned to deliver his said Gaol of the County of *Derby* aforesaid of the Prisoners therein being, by their proper Hands, to deliver here in Court of Record in Form of Law, to be determined, &c. and afterwards, to wit, at the same Delivery of the Gaol of our said Lord the King, of his County of *Derby* aforesaid, holden at *Derby* aforesaid, in and for the County aforesaid, on the said ——— the ——— Day of ——— in the said ——— Year of the Reign of our said Lord the King, before the said Justices of our said Lord the King last above-named, and others

thers their Fellows aforefaid, Cometh the faid *A. B.* under the Custody of *German Pole*, Esq; Sheriff of the County aforefaid, (in whose Custody in the Gaol of our faid Lord the King, of the County aforefaid, for the Cause aforefaid, he had before been committed) to the Bar here brought in his proper Person, who is committed to the aforefaid Sheriff, &c. and forthwith of the Premisses in the Indictment aforefaid above specified, being asked in what Manner he would be tried thereon; he the faid *A. B.* says he is Not guilty thereof, and thereof for good and ill he puts himself upon the Country; therefore let a Jury thereupon immediately come before the faid Justices of our faid Lord the King last above-named, and others their Fellows aforefaid here, by whom the Truth of the Matter will be better known, and who have no Affinity to the faid *A. B.* to recognize upon their Oath, whether the faid *A. B.* be guilty of the Premisses in the Indictment aforefaid above specified, or not; and the Jurors of the faid Jury by the faid Sheriff for this Purpose impanelled and returned, to wit, (*Here insert all the Names of the Petty Jury*) being called, come, who being chosen, tried, and sworn to speak the Truth of and upon the Premisses aforefaid, in the Indictment aforefaid above specified, do say, upon their Oath, that the faid *A. B.* is Not Guilty of the Premisses aforefaid, in the Indictment aforefaid above specified, in Manner and Form as the faid *A. B.* for himself

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self above by his Plea hath alledged, nor did he withdraw himself on that Occasion; upon which it is considered by the Court here, that the said *A. B.* of the Premises aforesaid, in the Indictment aforesaid above specified, be discharged, and do go without Day.

T H E

THE
PRACTICE
OF THE
General and General Quarter
SESSIONS.

Precept to Summon the SESSION.

Middlesex. **W**E Thomas Lane, and
Edward Barker, Esqs,
two of the Justices of
our Sovereign Lord the
King, assigned to keep the Peace in the
County of *Middlesex*, and also to hear and
determine diverse Felonies, Trespasses, and
other Misdeeds committed in the same Coun-
ty, To the Sheriff of *Middlesex*, greeting. On
the Part of our said Lord the King we com-
mand you, that you do not omit for or by
reason of any Liberty in your Bailiwick (except
the Liberty of *Westminster*) but that you cause
to come before us, and others our Fellow Ju-
stices

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stices of our said Lord the King, assigned to keep the Peace in the said County, and also to hear and determine diverse Felonies, Trespases, and other Misdeeds committed in the same County, at *Hicks's Hall* in Saint *John Street* in the said County, on the

Day of now next ensuing, at the Hour of in the Forenoon

of the same Day, twenty-four good and lawful Men of the Body of your County, to inquire, present, do and perform, all and singular such Things, which on the Part of our said Lord the King shall be enjoined them. Make known also to all the Justices of the Peace of our said Lord the King, in your County aforesaid, That they be there with their Rolls, Records, and other Memorandums, to do those Things which in that Behalf belong to their Offices to be done. And have you then and there the Names of the said Jurors, and this Precept. Given under our Hands and Seals, at *Hicks's Hall* aforesaid, this Day of in the

Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. and in the Year of our Lord 17

What a Session is.

The *Session of the Peace* is a Court of Record, held before two or more Justices of the Peace, one being of the *Quorum*, for the Execution of the Authority given them by their

and General Quarter Sessions. 33

their Commission, and certain Acts of Parliament.

This Court, by the *Stat. 2 H. 5. stat. 1. c. 4.* is appointed to be held four Times in the Year, viz. in the first Week after *Michaelmas*, *Epiphany*, *Easter*, and the Translation of Saint *Thomas the Martyr* (called *Becket*, which was on the Seventh of *July*,) and oftner, if need be; and is generally held on the *Tuesday* in these Weeks. It seems to be the Intent and Meaning of the said *Statute 2 H. 5. c. 4.* that the Weeks wherein the aforesaid Feasts happen, must be first ended, before the Sessions can begin.

But by the *Stat. 14 H. 8. c. 4.* the Justices of *Middlesex* are not obliged to keep Sessions above twice in the Year; but they may oftner if they think fit. And because of the Multiplicity of Business arising in this County more than in any another, it is customary to hold eight Sessions every Year, (to wit) four General Quarter, and four General Sessions; and in *Middlesex* the Justices have a Commission of *Oyer and Terminer*, which Sessions they hold as often as they hold the Sessions of the Peace.

Within the County of *Middlesex* is the City, Borough, and Town of *Westminster*; which City, &c. hath a distinct Commission of the Peace, by Virtue whereof the Justices of that Liberty, &c. hold four Quarter Sessions of the Peace every Year, at *Westminster Hall*; and also have Power, by their Com-

D

mission,

mission, to take cognizance of Offences committed in the Precinct of *St. Martin le Grand, London*, and twice in every Year adjourn the Session of the City and Liberty of *Westminster*, to the Court-house of the said Precinct of *St. Martin le Grand*.

At both the last mentioned Sessions, Indictments are prefer'd for Felonies, Burglaries, &c. which when return'd by the Grand Jury into Court, are, by the respective Clerks of the Peace, transmitted to the *Sessions-house* in the *Old Bailey*, where the Sessions of *Oyer and Terminer*, and *General Gaol-Delivery* of *Newgate*, for the City of *London* and County of *Middlesex*, are also holden eight Times in the Year (to wit) in the same Weeks in which the Sessions are held at *Hicks's Hall*.

Altho' the City and Liberty of *Westminster* has a separate Commission of the Peace from that of the County of *Middlesex*, yet Indictments for Offences committed within the said City and Liberty (except the Precinct of *St. Martin le Grand, London*) are within the Cognizance of the Session of the Peace of the County of *Middlesex*; and 'tis much better to prefer Indictments at the County Sessions, for Misdemeanors committed in the Liberty of *Westminster*, than at the Session for the said Liberty, inasmuch as there are eight Sessions yearly for the said County, and but four for the Liberty; consequently an Indictment may be tried and determined in half the Time at the Session for the County, than it can at the Liberty.

berthy. And *note*, that all Indictments exhibited at *Westminster*, for the City and Liberty, must particularly set forth the Stile of the said City and Liberty in the Margin, thus, *City, Borough, and Town of Westminster in the County of Middlesex*; and if the Offence be committed in *St. Martins le Grand*, you add it to the former, in the Margin thus, *and St. Martin le Grand, London*; then begin your Indictment, *The Jurors, &c. That A. B. late of the Parish of Saint Martin in the Fields, within the Liberty of the Dean and Chapter of the Collegiate Church of Saint Peter, Westminster, the City, Borough, and Town of Westminster, in the County of Middlesex, Yeoman, &c.* And if the Offence be committed in a Parish within *Saint Martin le Grand*, lay the Defendant of that Parish, and go on with the Stile of the said Liberty as before, and then add these Words, *and Saint Martin le Grand, London, Yeoman, on the* *Day of* *in the* *Year of the Reign, &c. with Force and Arms, at the Parish aforesaid, within the Liberty aforesaid, in the County aforesaid, &c.* and conclude your Indictment. *Note also*, That if you would prefer your Indictment at the County Sessions, for any Offence committed in any Parish within the said City and Liberty (except *Saint Martin le Grand*) you must mention the Parish generally, and leave out the Stile of the Liberty, by saying only, *A. B. late of the Parish of Saint Martin in the Fields in the County of Middlesex, Yeoman,*

and so forth; and if a Party should be bound by Recognizance to prefer a Bill of Indictment, and prosecute for an Offence at the next Session of the Peace to be holden for the City and Liberty of *Westminster*, if the Party so bound prefers a Bill for the same Offence at the Session for *Middlesex*, 'tis the same as if he had prefer'd his Bill at the Session for the Liberty, and his Recognizance shall be safe; for the Clerks of the Peace, as well for the said County, as the said Liberty, do yearly, before they send the Estreats into the *Exchequer*, compare their Books of forfeited Recognizances; and if it appears, that a Party bound to prosecute at *Westminster*, hath prosecuted at the Session for *Middlesex*, his Recognizance is not estreated.

The Justices of the Peace have power to hear and determine divers Felonies, Trespases, &c. (according to the Words of their Commission); but though the Justices of the Peace have this Power, yet now the common Practice is, to try Petty Larcenies and Misdemeanors only at Sessions of the Peace, and those Felonies of a higher Nature are transmitted as before-mentioned. If Indictments of Felony, above the Degree of Petty Larceny, are prefer'd at the Sessions in the Country, the Clerks of the Peace of the respective Counties, transmit them to be tried at the Assizes on the Gaol-Delivery holden for such Counties where the Bills are found; but where a Statute creates a Crime, and appoints
before

before whom it shall be tried, in such Case, if the Sessions be not named, they have no Jurisdiction; as in Forgery, upon the Statute 5 *Eliz. c. 14.* which provides, That the Indictment shall be taken before Justices of Assize, and Justices of Oyer and Terminer; so that an Indictment on that Statute may be exhibited at the Sessions for the County of *Middlesex*, and not at the Sessions for the City and Liberty of *Westminster*, for they have no Commission of Oyer and Terminer.

The Persons who ought to appear at the Sessions of the Peace, are as follow:

1. The *Justices of the Peace*; for the Sessions cannot be held without a competent Number, who are to return thither such Recognizances to answer, prosecute, and to give Evidence, as before such Justices (in the intervening Time between one Sessions and another) have been respectively acknowledged and taken: And the Justices of the Peace ought also to attend by themselves, or Clerks, at the Sessions of Gaol-Delivery, to testify the Examinations and Informations they have taken.

2. The *Custos Rotulorum*, by Virtue of his Place, hath the Custody of the Rolls of Sessions, and ought to attend the Sessions by himself, or his Deputy, who is the Clerk of the Peace.

3. The *Sheriff*, by himself, or Deputy, must attend to return Jurors, receive Prisoners committed, and the Fines imposed by the Court, &c.

4. The Constables of Hundreds ought to be there, and all other Officers, to whom any Warrant has been directed, in Order to make Return thereof.

5. The *Gaoler* ought to be there, to give Calendars to the Justices, Clerk of the Peace, and other Officers of the Court, of such Persons as are in Gaol, and to receive such as may be committed for any Contempt or Offence.

6. The *Governor*, or *Keeper of the House of Correction*, to give Calendars as aforesaid, of such Rogues and disorderly Persons, as have been committed to his Custody; in Default thereof he is finable by *Stat. 7 Jac. 1. c. 4.*

7. All Jurors returned by the Sheriff, by Virtue of the Precept to him directed.

8. All Persons bound by Recognizance, to answer, prosecute, and give Evidence.

9. All *Bailiffs* of Hundreds and Liberties, in Respect they are bound to give an Account of all Sessions Process.

10. All *Coroners, &c.*

The Jurors not appearing according to their Summons, are punishable by Loss of Issues, which usually makes up Part of the Estreats of Sessions; as also the Constable, &c. by Fine to be set on them.

The Justices being met to hold the Sessions, the Method is to make Proclamation, and then read the Commission of the Peace; which done, the Gentlemen, returned by the Sheriff for the Grand Jury, are called, sworn, and charged,

charged, who immediately (if any Bills of Indictments are ready for Examination) proceed to their Business.

And the Court proceeds to try Traverfes, Petty Larcenies, &c.

When the Grand Jury have agreed upon any Bills, they bring the same into Court; and the Clerk of the Peace calls every Jurymen by his Name, who severally answer, to signify they are present; and the Foreman of the Jury hands the Indictments to the Clerk of the Peace, who thereupon says to the Jury, thus; *Gentlemen, you agree the Court shall amend Matter of Form, and false English, altering no Matter of Substance.* The Jury signifying their Consent, the Clerk of the Peace reads the Names of the Offenders, and Offences, of every Indictment, whether the Bills are found to be true or not (as indorsed by the Jury;) and on those Bills not found, the Clerk of the Peace makes a Cross. And as to those Bills found for Grand Larceny, or Crimes of a higher Nature, the several Witnesses indorsed on the Back of the Bills are respectively called over, and directed to go to the *Old-Bailey*, (at such a Time) and prosecute *A. B.* for Felony, or as the Case is; then the Jury return to examine the Witnesses, upon such other Bills as are brought before them.

When Bills of Indictments are found by the Jury to be true, the Prosecutors have a Right to request Process or Warrants against the Parties indicted, in order to bring them

into Court to answer; but the Practice in *Middlesex* Sessions is, not to grant a Warrant, in Cases of Misdemeanor, or Trespass, 'till the Grand Jury be discharged (which seldom happens 'till the last Day of Sessions); because Persons are frequently bound by Recognizance, before the Sessions, to answer for the same Offence for which they are indicted. The Session, tho' it may hold a Week, or more, is but one Day in Law; therefore Parties bound by Recognizance ought to have the whole Time to come and answer, otherwise two Recognizances may be taken for one and the same Offence, previous to any Plea. (*See the Form of a Bench Warrant upon an Indictment, hereafter, No. 5.*)

If no Application be made for a Warrant, during the Sitting of the Sessions, the Prosecutor (in Case the Defendant does not come in and plead) may, after the Session, apply to the Clerk of the Peace, at his Office, who will certify that a Bill of Indictment is found (*The Form of which see hereafter, No. 6.*) upon whose Certificate, some one of the Judges of the Court of *King's Bench*, or a Justice of the Peace, will grant a Warrant to take the Party indicted, and will take Sureties or Bail for his personal Appearance at the next Sessions, to plead to such Indictment; or will commit him for Want of Sureties: But in order to procure a Judge's Warrant there must, besides the Certificate, be also produc'd an Affidavit of the Nature and Circumstances of the

the Case, whereby it may appear that the granting such Warrant is requisite.

The Warrant of the Judge is directed to his Tipstaff, and to all Constables, &c. and other Peace-Officers, and extends all over *England*, whereas the Justice's Warrant, on such Certificate, is executed by a Constable or Headborough, and extends no farther than the particular County for which they are Officers; except only, that if a Warrant be obtained on an Indictment in one County, the Defendant may be arrested in any other County; but Application must first be made to a Justice of the Peace of such other County, by Information, on Oath, that it is believed the Defendant is in that County; whereupon the Justice of the Peace will indorse that Warrant, and direct it to the Constables, &c. of his County, signifying the Defendant is to be found there; and by such Indorsement command the said Constables, &c. to bring the Defendant before him, or some other of his Majesty's Justices of the Peace of that County, to answer the Premises contained in the said Warrant, to which the said Justice puts his Hand and Seal; and if the Defendant should be arrested and brought before the said Justice, he may bind him in a Recognizance, with Sureties to appear at the next Sessions of the Peace, to be holden for the County where the Indictment was found, to answer and plead to the same.

Note;

Note ; Justices of the Peace very seldom oblige Defendants to give Notice of the Bail they intend to put in, unless for some very notorious Offence: But in all Cases, if the Defendant be arrested by Virtue of a Judge's Warrant, he must remain in Custody 'till such Time as he has given twenty-four Hours Notice, at least, to the Prosecutor, or his Solicitor, of the Bail he intends to put in before the Judge (*the Form of which Notice see hereafter, No. 1.*) so that the Prosecutor in that Time may have an Opportunity of inquiring after such Bail, if they are good and substantial House-keepers, and if the Bail are not so, the Prosecutor, or his Solicitor, may attend the Judge, when the Defendant is brought up in Order to be Bailed, to make their Exceptions against them.

If a Defendant should be arrested on a Judge's Warrant, in any Place remote from the Judge's Chambers, or in the Vacation Time, when the Judges are out of Town, or on their Circuits, a Justice of Peace may take Bail, and the Defendant must give the like Notice as before-mentioned.

No. 1. *The Form of a Notice of putting in Bail.*

The KING against JAMES MUNS.

Mr. WILLIAM PECK, Prosecutor.

TAKE Notice that I shall put in Bail before Mr. Justice *Foster*, at his Chambers in *Serjeants Inn, Chancery-Lane*, to-morrow in the Evening, at the Hour of seven, for my Appearance at the next General Session of the Peace, to be holden at *Hicks's Hall*, in *St. John-street*, in and for the County of *Middlesex*, then and there, to answer and plead to the Indictment you have prefer'd against me for assaulting you. The Names of the Bail are, *Michael South* of *Tavistock-street*, near *Covent-Garden*, *Mercer*, and *Peter Groom* of the same Place, Victualler.

Yours, &c.

10th April,
1747.

JAMES MUNS.

Indictments prefered at Sessions, may be removed by *Certiorari*, into the Court of *King's Bench*, either by the Prosecutor or the Defendant.

The Writ of *Certiorari*, to remove Indictments, is sued out of the Crown-Office.

By

By the Stat. 5 & 6 W. & M. c. 11. In Term Time no Certiorari, at the Prosecution of any Party indicted, shall be granted out of the Court of King's Bench, to remove any Indictment before Trial had, from before the Justices of the General or Quarter Sessions of the Peace, unless such Certiorari shall be granted upon Motion of Counsel and Rule of Court, in open Court; and the Parties indicted, prosecuting such Certiorari, shall find two Manucaptors before one or two Justices of the County, in twenty Pounds, to plead to the said Indictment in the King's Bench, and at their own Charges to procure the Issue that shall be joined upon the said Indictment, to be tried at the next Assises, held for the County where the said Indictment was found, after such Certiorari shall be returnable, if not in London, Westminster, or Middlesex; and if in the said Cities or County, then to cause it to be tried the next Term after such Certiorari shall be granted, or at the Sitting after the said Term, if the King's Bench shall not appoint any other Time. And Notice to be given to the Prosecutor, and the said Recognizance and Certiorari to be certified into the King's Bench, and there filed, and the Name of the Prosecutor to be indorsed: And if the Party prosecuting such Certiorari, being the Defendant, shall not before Allowance thereof procure such Manucaptors to be bound in a Recognizance, the Justices of the Peace may try the said Indictment at the Sessions, notwithstanding such Certiorari so delivered.

And

And if the Defendant prosecuting such Certiorari be convicted, then the King's Bench shall give reasonable Costs to the Prosecutor, to be taxed according to the Course of the said Court; and within ten Days after demand, upon Oath, and Refusal thereof, he shall have an Attachment against the said Defendant by the Court for his Contempt; and the Recognizance not to be discharged, till the Costs, so taxed, shall be paid.

Costs upon Defendant's Conviction.

Nevertheless, in the Vacation, Writs of Certiorari may be granted by any of the Justices of the King's Bench, whose Names shall be indorsed, and the Name of the Party, at whose Instance it is granted; and before the Allowance of such Writ, the Party Indicted prosecuting such Certiorari shall find such Sureties as before mentioned in this Act.

Certiorari granted in Vacation.

And also, upon every Certiorari granted within Chester, Lancaster, and Durham, to remove Indictments as afore said, the Parties indicted prosecuting such Certiorari, shall

If granted in Counties Palatine.

find Sureties to try the said Indictments, at the next Assises, or General Gaol-Delivery, and if convicted, shall be liable to the like Costs; to be taxed, as by this Act is provided, where the same are granted out of the King's Bench.

Provided, if any Indictment be against any Person for not repairing Highways, Causeys, Pavements or Bridges, and the Title to repair

pair the same may come in Question; upon such Suggestion, and an Affidavit made thereof, a Certiorari may be granted to remove the same into the King's Bench; any Law to the contrary notwithstanding.

Provided, that the Parties shall find two Manucaptors to be bound in a Recognizance, with Condition as aforesaid.

As made perpetual.

Made perpetual by Stat. 8
& 9 W. 3. c. 33.

By the Stat. 13 Geo. 2. c. 18. sect. 5. It is enacted that no *Certiorari* shall be granted to remove any Proceedings before any Justice or Justices of Peace, or the General or Quarter Sessions, unless it be moved or applied for within six Calendar Months next after such Proceedings had; and unless it be duly proved upon Oath, that the Party suing forth the same hath given six Days Notice in Writing, to the Justice or Justices or two of them, if so many there be, before whom such Proceedings shall be had; to the End the said Justice or Justices, or the Parties concerned, may shew Cause against the granting such *Certiorari*.

The Party prosecuting any *Certiorari* to remove an Indictment from the Quarter Sessions, may find two sufficient Manucaptors

The Recognizance may be taken before a Judge, &c.

to enter into a Recognizance before any one of the Justices of the King's Bench, in the same Sum, and under the same Conditions as are required by the former Act, whereof Mention shall be made on the Back

of

of the Writ, under the Hand of the Justice, who took the same, which shall be as effectual to stay Proceedings, as if taken before a Justice of Peace in the proper County; and it shall be added to the Condition of the Recognizance, that the Party suing out the *Certiorari* shall appear from Day to Day in the Court of *King's Bench*, and not depart till discharged by the said Court.

The Method of Proceeding to Trial, upon Indictments in the Courts of General and Quarter Sessions, is as follows;

First, The Party indicted comes into Court in his proper Person, and brings with him two sufficient House-Keepers for his Pledges; and his Solicitor makes a Note of the Names and Additions of such Pledges, which he delivers to the Clerk in Court, who is to take the Recognizance.

Then the Clerk reads the Indictment to the Party indicted, and says, *Are you Guilty, or not Guilty*; and the Person indicted says *Not Guilty*, which is the Custom of pleading the General Issue.

Then the Clerk calls the Party indicted by his Name, and takes the Recognizance thus:
 " *A. B.* you acknowledge to owe to our So-
 " vereign Lord the King, the Sum of forty
 " Pounds. *C. D.* and *E. H.* (the Pledges)
 " you and each of you acknowledge to owe
 " to our Sovereign Lord the King, the Sum
 " of twenty Pounds, to be levied upon your
 " several Goods and Chattels, Lands, and
 " Tene-

“ Tenements, by Way of Recognizance to
“ his Majesty’s Use, upon Condition, that
“ *A. B.* shall be and appear at the next Ge-
“ neral (or General Quarter) Session of the
“ Peace (as it happens) to be holden for the
“ County of *Middlesex*, and within the three
“ first Days of the same Session, to try his
“ Traverse upon the Indictment, to which
“ he hath now pleaded Not Guilty, and not
“ to depart the Court without Leave; are
“ you content?” Then the Person who hath
pleaded, and his Pledges, severally make An-
swer, “ Yes” or, “ we are contented;” and
then depart the Court for that Time. ’Tis
not Customary in *Middlesex*, to grant a Copy
of an Indictment to a Defendant, till he hath
pleaded; but in all other Sessions, and at
Assises, we believe, they do grant Copies
before the Parties plead; and ’tis very reasona-
ble and just it should be so, that the Defen-
dants may be advised what to plead. In Cases
of Felony, the Person indicted is not allowed
a Copy, without the Order of the Court that
tries him, or the Attorney General, and that
is never granted, but when manifest Malice
appears in the Prosecution, and that the Pro-
secutor had not a reasonable Cause for charg-
ing the Defendant; but in such Cases it is
often granted to enable the Defendant to be
repaired in Damages by the Prosecutor, upon
an Action at Common Law. Two or three
Days before a Traverse for a Misdemeanor is
intended to be tried, the Solicitor for the De-
fen-

Defendant draws a Notice thereof, and serves the Prosecutor with a true Copy. The Form of the Notice is thus;

No. 2. The KING *against* JOHN DAVIDSON,
at the Prosecution of WILLIAM
DYKE.

Mr. WILLIAM DYKE,

Notice of Trial. TAKE Notice, That I
intend to appear at the
next General (*or General Quarter*) Ses-
sion of the Peace (*as it appears*) to be
holden by Adjournment, at *Hicks's Hall*
in *St. John Street*, in and for the County
of *Middlesex*, on *Wednesday* next, being
the Day of by ten o'Clock
in the Forenoon of the same Day, and
then and there try my Traverse upon
the Indictment you have prefer'd against
me for assaulting you. Dated the
Day of 1747.

Yours,

JOHN DAVIDSON.

If the Defendant should be indicted upon
the Commission of Oyer and Terminer, then
say, take Notice I will appear at the Session
of Oyer and Terminer, to be holden, &c.
and specify the Offence.

E

When

When the Defendant's Solicitor hath served the Prosecutor with such Notice, he applies to the Clerk of the Peace for a *Venire*, for the Sheriff to return a Jury, and the Clerk of the Peace makes out the Writ, for which he takes two Shillings and Six-pence, and upon that Writ, the Sheriff returns a Jury, for which he takes ten Shillings. *Note also*, that the Clerk of the Peace makes out the Writ of *Subpoena* for Witnesses; for every such Writ in *Middlesex*, the Clerk of the Peace takes two Shillings and Six-pence. *See the Form hereafter No. 7.*

On the Day of Trial, the Defendant must appear in the Court, at the Bar, in his proper Person, and the Solicitor prepares an Affidavit of the Service of the Notice, in Case the Prosecutor does not appear. (The Form of the Affidavit is as follows:)

No. 3. The KING *against* JOHN DAVIDSON.

Middlesex. **A** B. of &c. Solicitor for the Defendant in this Prosecution maketh Oath, that on *Saturday* last, being the Day of at the Dwelling-House of *William Dyke* the Prosecutor in this Cause, situate in *Soho-Square* in the County of *Middlesex*, he this Deponent did personally serve the said *William Dyke* with a true Copy of the Notice hereunto annexed, and at the same Time did inform the said *William*
liam

of the SESSIONS. 51

liam Dyke of the Contents and Purport thereof.

A. B.

Sworn in Court the

Day of 1747.

— WALLER.

N. B. Personal Service of the Notice is not absolutely necessary ; for if you cannot meet with the Prosecutor, Leaving the Notice with any Person at the last Place of the Prosecutor's Abode, is a good Service.

When the Defendant is at the Bar, a Clerk in Court reads the Indictment to the Jury, then says ; to which Indictment the Defendant hath pleaded, Not Guilty : Your Business, Gentlemen, is to inquire whether he be Guilty or Not guilty, and hearken to your Evidence ; then the Cryer makes Proclamation ; O yes, if any one can inform the King's Justices, the King's Attorney, the King's Serjeant, or this Inquest now to be taken, let them come forth and they shall be heard, for the Defendant stands at the Bar upon his Discharge.

Then the Prosecutor, and all the Witnesses that appear to be indorsed on the Indictment, are called to give Evidence, and are heard ; and if the Defendant is found guilty, the Court sets a Fine upon him adequate to the Offence, or other Punishment, as the Law directs.

In Case of Trespafs and Assault, the Court frequently recommends the Defendants to talk with the Prosecutor (that is, to make him amends for the Injury done him); and if the Prosecutor comes and acknowledges a Satisfaction received, the Court will set a small Fine on the Defendant, as three Shillings and Four-pence, or Twelve-pence.

If a Prosecutor does not appear against the Defendant, according to the Notice, the Defendant is acquitted, the Prosecutor being (by the Crier) called three several Times to come and give Evidence; then the Chairman says to the Jury to this Effect; *Gentlemen, A. B. stands indicted for making an Assault upon B. C. the Prosecutor does not appear to give Evidence, therefore without you know of your own Knowledge, that the Defendant is guilty, you must acquit him*; and thereupon the Jury being asked (by the Clerk) *whether the Defendant is Guilty, or Not Guilty*; they say, *Not Guilty*; and the Defendant pays the Jury twelve Shillings for the Verdict, besides paying the Court Fees.

Sometimes the Prosecutor and Defendant agree before the Defendant pleads to the Indictment, and then the Defendant comes into Court in his proper Person, and pleads Guilty to the Indictment; and upon proving (by a subscribing Witness) a general Release executed by the Prosecutor, the Defendant submits to a small Fine (to wit) such as the
Court

Court is pleased to impose. Or if the Defendant hath pleaded to the Indictment, Not Guilty, and afterwards obtains a general Release from the Prosecutor, the Defendant may come into Court, and upon relinquishing his former Plea, and pleading Guilty, and upon proving the Release, as above, the Court will set a small Fine.

If the Defendant be indicted by a wrong *Christian* Name, he may plead a Misnomer, which is to be ingrossed on Parchment and signed by Counsel (*see the Form of the Plea hereafter, No. 8 and 9.*) and deliver'd by the Defendant, in Person, in open Court, upon his being charged with the Indictment; upon which Plea of Misnomer, the Defendant enters into a Recognizance, with Sureties, to prosecute the same, with Effect, the Session following; and the Defendant is to give Notice to the Prosecutor, two Days at least before that Session, that unless he replies, Judgment will be given for the Defendant.

Oftentimes Prosecutors reply, That the Defendant is as well known by one Name as the other; as where one is Indicted by the Name of *John*, and his true Name is *Thomas*, yet if the Defendant is commonly called *John*, and that proved by proper Witnesses upon the Replication, Judgment shall pass for the King.

If the Defendant be acquitted, he cannot again be indicted for the same Offence; but if

he should be again indicted, he may plead *auterfoits acquit*.

There are frequent Prosecutions at Sessions for trifling Assaults, in which Cases 'tis advisable for a Defendant not to put himself to the Expence of trying the Indictment; but to give Notice to the Prosecutor, that he intends to plead Guilty to such Indictment (*the Form of which see hereafter*); in which Case the Prosecutor attends the Court, with his Witnesses, and gives Evidence of the Nature of the Offence; and then the Court proceeds to Fine the Defendant for his Misbehaviour towards the Prosecutor: But before that is done, the Court will admit the Defendant to call such Witnesses as he desires, and will examine them by Way of Mitigation. And if the Prosecutor does not appear, pursuant to the said Notice, then upon making an Affidavit of the Service of the said Notice, the Court will set a small Fine on the Defendant, and discharge him. (*See the Notice to plead Guilty, No. 4.*)

No. 4. *Notice of pleading Guilty to an Indictment.*

THE KING *against* **HERBERT JONES,**

MR. PHILIP SOMERSET,

TAKE Notice, That I will appear at the General Quarter-Sessions of the Peace to be holden at *Hicks's Hall*

of the SESSIONS. 55

Hall in *St. John Street*, in and for the County of *Middlesex*, by Adjournment, on *Friday* the Twelfth Day of this Instant *January*, at the Hour of Ten in the Forenoon of the same Day, and will then and there plead Guilty to, and confess the Indictment by you prefer'd against me for an Assault. Dated this — Day of *January* 1747.

Yours, &c.

HERBERT JONES.

If the Defendant should have an Action brought against him for the same Offence of which he stands indicted (which he cannot well judge before the Plaintiff declares) the Defendant may apply to his Majesty's Attorney General for a *Noli Prosequi*, to be enter'd on the Indictment. For this purpose, he must first obtain a Certificate from the Clerk of the Peace, of the whole Substance of the Indictment, and the Time when it was prefer'd; which Certificate must be annexed to an Affidavit, purporting, " That such a one did
" see the Clerk of the Peace of the County
" of *Middlesex* sign the Certificate thereto annexed on such a Time; and that since, or
" before the Time (*as the Case is*) of preferring
" the Indictment, this Deponent was served
" with a Copy of a *Capias*, issuing out of
" his Majesty's Court of *Common Pleas*, at
the

“ the Suit of *A. B.* the Prosecutor of the
“ said Indictment, returnable, &c. and that at
“ such a Time this Deponent did receive a
“ Notice of a Declaration being filed against
“ him, at the Suit of the said *A. B.* the Pro-
“ secutor of the said Indictment, in Protho-
“ notary *Cooke’s* Office in the *Temple*, for as-
“ faulting him the said *A. B.* which said De-
“ claration and Indictment, this Deponent
“ saith, is for one and the same Assault, and
“ not for two different Offences of that Sort;”
whereupon the Attorney General will grant
a Summons, directed to the Prosecutor, to at-
tend him on such a Day, to shew Cause why
a *Noli Prosequi* should not be entered on such
Indictment; and if the Prosecutor does attend
pursuant to that Summons, he must make his
Election whether he will proceed on the In-
dictment, or on the Action; and if he does
not attend the first Summons, a second and
third issues; and if he does not attend either
of them, upon making Affidavit of the Ser-
vice of the several Summonses on the Prose-
cutor, or leaving them at the last Place of his
Abode, the Attorney General will sign a
Warrant under his Hand and Seal, directed to
the Clerk of the Peace of the County, for en-
tering a *Cessat Processus* on the Indictment.

All Motions in Sessions ought to be made
by Counsel, if Counsel are attending, other-
wise the Court will hear Motions by the Soli-
citors.

Towards

Towards the Close of the Sessions, that is to say, after the Grand Jury is discharged, and Traverses, &c. are tried, the Court proceeds to the Discharge of such Persons as are bound by Recognizance to answer.

The Parties bound to answer, are call'd as they stand enter'd in the Clerk of the Peace's Book, and if there be no Indictment against them they are discharged upon answering to their Names and paying their Fees.

No. 5. *The Form of a Bench Warrant upon an Indictment being found.*

Middlesex. *To all Constables, Headboroughs, and other his Majesty's Officers and Ministers within the County of Middlesex, and to every of them whom it may concern.*

THESE are to will and require, and in his Majesty's Name to charge and command you, upon Sight hereof, to bring before us his Majesty's Justices of the Peace of the County aforesaid, at the Sessions of the Peace now holden at *Hicks's Hall* in *St. John Street*, in and for the said County, the Body of *John Doe* for a *Trespass and Assault* (*specify the Offence*) (if the Court shall be then and there Sitting) or if not, before us, or some other of his Majesty's Justices of the Peace of the same County, to find sufficient Sureties for his personal Appearance
at

at this present Session, to answer the same, and all such other Matters as on his Majesty's behalf shall be objected against him; and if he cannot be taken during this present Session, that then so soon after as he shall be taken, you bring, or cause him to be brought, before us, or some other his Majesty's Justices of the Peace of the said County, to find sufficient Sureties for his personal Appearance at the next Session of the Peace to be holden for the said County, to answer as aforesaid, and further to be dealt withal according to Justice: Hereof you are not to fail at your Peril. Dated in open Session at *Hicks's Hall* aforesaid, this—— Day of *December* in the Year of our Lord, 1747.

No. 6. *A Certificate of a Person's standing Indicted.*

Middlesex. THESE are to certify, That at the General Quarter-Sessions of the Peace holden at *Hicks's Hall* in *St. John Street*, in and for the County of *Middlesex*, by Adjournment, on *Monday* the Eighth Day of *October* last past, *William Jenkins* was, and stands Indicted for a Trespass and Assault upon *Hannab North*, Widow, to which Indictment the said *William Jenkins* hath not as yet appeared or pleaded. Dated this—— Day of *November* in the Year of our Lord 1747.

No. 7.

No. 7. *Subpœna for Witnesses to give Evidence at the Sessions of the Peace.*

Middlesex. **G**EORGE the Second, by the Grace of GOD, of Great Britain, France and Ireland King, Defender of the Faith, &c. to A. B. C. D. E. F. G. H. *, greeting. We command you, that all Business being laid aside, and all Excuses whatsoever ceasing, you do in your proper Persons appear before our Justices assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County at the Session of the Peace to be holden at *Hicks's Hall* in *St. John Street*, in and for the said County, on *Thursday* the 22d Day of *May* next, at the Hour of Ten in the Forenoon of the same Day, to testify the Truth and give Evidence *on our † Behalf*, against *John Simpson*, in a Case of Trespass and Assault; and this you are no wise to omit, nor any of you to omit, on pain of one Hundred Pounds. *Witness* Thomas Lane, Esq; the——Day of April in the——Year of our Reign.

T. W.

* Note; There may be four Witnesses put in one Subpœna.

† If it is on the Behalf of the Defendant, then you must say, *on the Behalf of J. S.* and so on as in the Precedent.

A

No .8.

No. 8. *Pleas of Misnomer.*

AND *Elizabeth*, the Wife of *James Hudson* (who is indicted by the Name of *Elizabeth Sparrow*, Spinster) cometh in her proper Person, and having heard the Indictment, she saith, that at the Time of taking the said Indictment, and long before, she, the said *Elizabeth*, was, and yet is the Wife of the said *James Hudson*, and then and long before was, and yet is called and known by the Name of *Elizabeth Hudson*, Wife of the said *James Hudson*; without this, that she the said *Elizabeth*, at the said Time of the taking the said Indictment, or at any Time since, was *Elizabeth Sparrow*, Spinster, or then was, or at any Time since hath been, or now is called or known by the Name of *Elizabeth Sparrow*; and this she is ready to verify; wherefore she prayeth the Judgment of the Court here, and that she may be dismissed and discharged of the said Indictment.

No. 9. **ANOTHER.**

AND the aforesaid *Elizabeth Carrant*, who is indicted by the Name of *Sarah Carrant*, cometh here into Court in her own proper Person, and demandeth Judgment of the said Indictment, because she saith, that she the said *Elizabeth Carrant*, from the Time of her Baptism to this present Time, was and still

still is called and known by the Name of *Elizabeth*, and by the said *Christian* Name is, and during the whole Time aforesaid, was called, named, and known; without that, that she the said *Elizabeth* now is, or any Time heretofore to this Day was called, named, or known by the Name of *Sarah*, as is supposed by the Indictment aforesaid; and this she the said *Elizabeth* is ready to verify; for which Reason, and because she the said *Elizabeth* is not named in the said Indictment by the Name of *Elizabeth Carrant*, she the said *Elizabeth Carrant* demands Judgment of the said Indictment, and that the said Indictment may be quash'd.

No. 10. *A Certificate of Conviction for Burglary.*

Middlesex. **T**H E S E are to certify, that at the Session of Gaol-Delivery of *Newgate*, holden for the County of *Middlesex*, at *Justice Hall* in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the——Day of this Instant *October*, *A. R.* was convicted, for that he, on the sixteenth Day of *June* last, about the Hour of two in the Night of the same Day, the Dwelling-House of *C. D.*, situate in the Parish of *St. Martin in the Fields* in the said County of *Middlesex*, then and there feloniously and burglariously did break and enter, with Intent the Goods and Chattels of the said *C. D.* in the same Dwelling-House, then
1 and

and there being, then and there feloniously and burglariously to steal, take, and carry away. Dated this Day of *October* in the Year of our Lord 1746.

——— *W. Clerk of the Peace and Gaol-Delivery of the County of Middlesex.*

A Certificate to discharge a Person from Parish Offices, &c. for apprehending and prosecuting a Person 'till Conviction, for Burglary.

THESE are to certify, that at the Session of Gaol-Delivery of *Newgate*, holden for the County of *Middlesex*, at *Justice Hall* in the *Old Baily*, in the Suburbs of the City of *London*, on *Wednesday*, the ——— Day of this Instant *October*, before Us, whose Hands are hereunto set, and others his Majesty's Justices, assigned to deliver the said Gaol of the Prisoners therein being, *A. B.* was convicted and attainted of Felony and Burglary, in breaking and entering the Dwelling-House of *C. D.* in the Night-time of the sixteenth Day of *June* last, at the Parish of *St. Martin in the Fields* in the County of *Middlesex*, with Intent to steal the Goods, Chattels and Monies of the said *C. D.* in the said Dwelling House. And it is hereby further certified, that the said *C. D.* was the Person who did apprehend and take him the said *A. B.* and did prosecute him so apprehended and taken, until the said *A. B.* was convicted of the said

said Felony and Burglary. And pursuant to an Act of Parliament made in the tenth and eleventh Years of the Reign of his late Majesty, King *William the Third*, intituled, *An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, House-breaking, or Robbery, in Shops, Ware-houses, Coach-houses, or Stables, or that steal Horses*; we the said Justices do hereby further certify, that by Virtue hereof, and of the said Act of Parliament, he the said C. D. for the Apprehension and Conviction aforesaid, shall and may be, and he is hereby declared to be discharged of and from all and all manner of Parish and Ward Offices within the Parish of *St. Martin in the Fields* aforesaid. Dated this——Day of *October* in the——Year of the Reign of our Sovereign Lord *George the Second*, &c. and in the Year of our Lord 1747.

The above Certificate must be ingrossed on Parchment, and signed by the Lord Mayor and Recorder; but you must first obtain a Certificate from the Clerk of the Gaol-Delivery (who is Clerk of the Peace of the County of *Middlesex*) of the Conviction of the Party, and that Certificate must be produced and left with the Lord Mayor or Recorder. See the Form of the Certificate of Conviction, No. 10.

By the Stat. 10 & 11 W. 3. cap. 23. All and every Person or Persons who shall take and prosecute

prosecute any such Felons (as mentioned in the above Certificate) to Conviction, shall have a Certificate thereof gratis, from the Judge or Justices, expressing the Parish or Place where such Felony was committed; and in Case any Dispute happen about the Right of such Certificate, the Judge or Justices shall direct the Certificate into so many Shares as they shall think reasonable, which Certificate may be assigned over once, and no more; and the Proprietor or Assignee shall, by Virtue thereof, be discharged from all Parish or Ward Offices in the Parish or Ward where such Felony was committed, which Certificate shall be inrolled by the Clerk of the Peace, for one Shilling Fee.

Persons having made Use of such Exemption, shall not then assign over such Certificate.

Persons slain by any such Felons aforesaid, by endeavouring to apprehend them, their Executors or Administrators shall have such Certificate, as aforesaid gratis.

No Clerk of Assise, Clerk of the Peace, or other Persons, shall take any Fee of Persons bound by any Justice of the Peace, to appear as Evidence against any Traytor or Felon, for discharging of their Recognizance, nor shall take above two Shillings for drawing any Bill of Indictment against any such Felon, under Penalty of five Pounds to the Party aggrieved, with full Costs of Suit.

If any Clerk of Assise, Clerk of the Crown, Clerk of the Peace, Clerk of the Indictments, or other proper Officer, their Clerks or Deputies,

sents, nor have made use thereof myself, nor have done, nor shall hereafter do any Act, whereby the said *E. F.* shall or may be deprived of the Benefit or Advantage which he is intitled to thereby, and by Virtue of the said Act of Parliament. In Witness whereof, I have hereunto set my Hand and Seal this ——— Day of *June* in the ——— Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain, &c.* and in the Year of our Lord One thousand seven hundred and forty-seven.

This must be signed, sealed, and delivered (as other Deeds) in the Presence of two Witnesses, who must subscribe the same.

Note; Before the *Assignment* is ingrossed upon the Back of the Certificate, you must carry the Certificate to the Stamp-Office, and have it stampd with a treble Six-penny Stamp.

The METHOD and FORM of Estreating Issues, Fines, Amerciaments, and forfeited Recognizances.

Caption of the Court.

Middlesex. **A**N Extract of all the Issues, Fines, Amerciaments, and Recognizances forfeited, and set to our Lord the King,

King, at the General Quarter-Session of the Peace of our said Lord the King, holden at *Hick's Hall* in *St. John Street*, in and for the County of *Middlesex*, on *Monday* the fourth Day of——in the——Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before *Thomas Lane*, *John Martin*, *Anthony Chamberlain*, *Thomas Deveil*, *Jacob Harvey*, *Alexander Garret*, *John Poulson*, and *Clifford William Phillips*, Esqrs. Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County, —— *Waller*, Esq; Clerk of the Peace of the County aforesaid, there attending for the Space of seven Days.

The Estreat of a Fine upon an Indictment.

Put the Addition as laid in the Indictment.

Of *John Wilson*, late of the Parish of *St. Clement Danes*,

Butcher, for a Trespass and Assault, at the same Parish whereof he is indicted and convicted, and his Fine is set at six Shillings

s. d.
vi viii

If the Fine is paid to the Sheriff.

and Eight - pence, which he paid to the Sheriff in Court.

Note; The Estreat must mention for what Offence the Fine was imposed.

Where the Party is committed for Non-Payment of his Fine.

Of *John Davies*, late of the Parish of *St. Giles in the Fields*, Labourer, for a Trespass, Assault and Riot, at the Parish of *St. Paul, Covent Garden*, whereof he is indicted and convicted, and his Fine is set at five Pounds, and he is committed to his Majesty's Gaol of *Newgate*, there to remain until he shall pay the said Fine.

l.
v

Of *Thomas Jackson*, late of the said Parish of *St. Giles in the Fields*, Labourer, for the like Offence, at the said Parish of *St. Paul, Covent Garden*, whereof he is indicted and convicted, and his Fine is set at five Pounds, and he is committed as above.

l.
v

The first Recognizance to answer.

Of *John Doe* of *Suffolk Street* in the *Strand*, in the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Blacksmith, because he came not now

here

here to answer to
all and singu-
lar such Things
which against him

*In the second and
other Recogni-
zances to answer
you say, to an-
swer as above.*

on the Part of our said Lord
the King, should be objected,

as by a certain
Recognizance ta-

ken bfore *John*
Poulson, Esq; one

of the Justices of
our said Lord the

King, assigned to
keep the Peace in the County

of *Middlesex*, he undertook.

*In the second and
other following
Recognizances
you only say, be-
fore J. P. Esq;
one of the Ju-
stices, &c. he
undertook.*

l.
xx

Of *John Roe* of *Thieving-Lane*,
in the Parish of *St. Margaret*,
Westminster, Joiner, one of the
Pledges of the said *John Doe*,
because he had him not to an-
swer as above.

l.
x

Of *Margaret Manlove* of *Hornsey*,
Widow, the other of the Pledges
of the said *John Doe*, for the like.

l.
x

Note; *When the Party or Parties (for whose
Appearance the Recognizance is taken) are
bound in the same Recognizance in a Sum of
Money, then the Security are called Pledges,
and the Party is said to be delivered to Bail.*

*In like Manner it is, where the Recog-
zance is taken for the Appearance of divers*

Persons, and any one of them be bound, there the Security are also called Pledges.

The Form of an Estreat of a Recognizance where the Offender is not bound.

Of Richard Fenn of Turn-again-Lane, in the Parish of St. Andrew, Holbourn, Dyer, one of the Mainpernors of William Wisemen, because he had him not now here to answer as above, as by a certain Recognizance taken before Robert Midford, Esq; one of the Justices, &c. he undertook. } l. x

Of David Denn of the same Place, Pewterer, the other of the Mainpernors of the said William for the like. } l. x

Note; When the Party is not bound himself, then the Security are called Mainpernors.

In Case of Bail, 'tis usual (and very proper) to put the Principal or Principals first, and Security after; but sometimes the Justices Clerks invert the due Order of the Recognizance, as in the following Instance.

Of Alexander Forecastle of St. James's, Westminster, Tiresmith, one of the Pledges of the under-named Thomas Gunbill, and Bernard Deck, because he had them not now here to answer as above, as by a certain Recognizance taken as above, he undertook. } l. x

Of

Of *Thomas Gunbill* of *Saffron-Hill* of the Parish of *St. Andrew Holbourn*, *Peruke-Maker*, because he came not now here to answer as above, as by the same Recognizance he undertook. } l.
v

Of *Barnaby Deck* of *Hatton-Garden* in the Parish of *St. Andrew, Holbourn*, aforefaid, *Wire-Drawer*, because he came not to answer as above, as by the same Recognizance he undertook. } l.
v

Of *Anthony Tims* of *Mutton-Lane* in the Parish of *St. Giles in the Fields*, *Butcher*, the other of the Pledges of the said *Thomas* and *Barnaby*, because he had them not to answer as above. } l.
v

The Form of an Estreat of a forfeited Recognizance, to prosecute, and give Evidence in Case of Fraud.

Of *Jacob Tomson* of the Parish of *St. George, Hanover-Square*, *Silver-Smith*, because he came not now here to prosecute the Law with Effect, and give Evidence on the Behalf of our said Lord the King, against *James Turner*, in a Case of Fraud and } l.
x

Misdemeanor, as by a certain Recognizance, taken before *Richard Newton*, Esq; one of the Justices of our said Lord the King, he undertook.

The Form of an Estreat of a forfeited Recognizance, for not prosecuting a Traverse.

Of *William Dobbins* of *Fleet-Street* in the Parish of *St. Bridget*, alias *Brides*, in the Ward of *Faringdon without*, Silver-Smith, because he came not now here to prosecute his Traverse, upon a certain Indictment of *Trespass* and *Assault*, as by a certain Recognizance he undertook.

l.

xx

Of *Nicholas Manby* of *Chancery-Lane* in the Liberty of the Rolls, and Parish of *St. Dunstan in the West*, Victualler, one of the Pledges of the said *William*, because he had him not to prosecute his Traverse as above.

l.

xx

Of *Michael Oneby* of *Norton Folgate*, Weaver, the other of the Pledges of the said *William*, for the like.

l.

xx

Caption

Caption of a Session of Oyer and Terminer.

Middlesex. **A**N Extract of all the Issues, Fines, Amerciaments, and Recognizances forfeited, and set to our said Lord the King, at the Session of Oyer and Terminer of our said Lord the King, holden at *Hicks's Hall* in *St. John Street*, in and for the County of *Middlesex*, on *Monday* the fourth Day of *June* in the——Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before *Thomas Lane*, Esq; *Sir John Gonson*, Kt. *John Martin*, *Anthony Chamberlain*, Esqrs. and others their Fellows Justices of our said Lord the King of Oyer and Terminer.

Note; *There must be four Gentlemen in the Commission of Oyer and Terminer to make a Session.*

Caption of a Session of Gaol-Delivery.

Middlesex. **A**N Extract of all the Issues, Fines, Amerciaments, and Recognizances forfeited, and set to our said Lord the King, at the Session of Gaol-Delivery of *Newgate*, of our said Lord the King, holden at *Justice Hall* in the *Old Bailey*, in the Suburbs of the City of *London*, for the County of *Middlesex*, on *Wednesday* the sixth Day of *June* in the——Year of the Reign of our Sovereign Lord *George* the Second,
now

now King of Great Britain, &c. before the Right Honourable Sir *Robert Westley*, Kt. Lord Mayor of the City of *London*, Sir *Thomas Parker*, Kt. Lord Chief Baron of his Majesty's Court of *Exchequer*, *Thomas Denison*, Esq; one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself, *Henry Marshal*, Esq; Sir *Richard Hoare*, Kt. Alderman of the City of *London*, and other their Fellows Justices of our said Lord the King, assigned to deliver his said Gaol of *Newgate* of the Prisoners therein being.

Of *John Davies* of the Parish of *St. Martin in the Fields*, Cook, one of the Mainpernors of *Sarah* the Wife of *James Wilson*, because he had her not now here, to prosecute the Law with Effect, and give Evidence on the Behalf of our said Lord the King, against *Winifred Morgan*, in Case of Felony, as by a certain Recognizance, taken before *Robert Midford*, Esq; one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, he undertook.

Of *John Dobikin* of the same Parish, Painter, the other of the Mainpernors of the said *Sarah* for the like.

l.

x

l.

xx

Note;

Note; *A Feme Covert cannot be bound by Recognizance, tho' sometimes Justices Clerks are so stupid to take their Recognizances only; but such Recognizances cannot be estreated.*

The Estreats upon the Rolls should stand in this Order, viz.

1. The Fines, &c.
2. Recognizances to answer.
3. Recognizances to prosecute Traverses.
4. To prosecute and give Evidence.

N. B. *Where a Person is bound by Recognizance to prefer a Bill of Indictment at the Session of the Peace, in Case of Felony, and give Evidence to the Grand Jury there; and in Case the Bill is found to be true, then to prosecute and give Evidence at the Session of Gaol-Delivery; in Case the Party make Default in Performance of the Condition of such Recognizance, in both Instances the Recognizance may be estreated at either Session.*

By the Stat. 22 & 23 Car. 2. c. 22. 'tis enacted, *That all Fines, Post-Fines, Issues, Amerciaments, forfeited Recognizances, Sum or Sums of Money paid in Lieu or Satisfaction of them, or any of them, and all other Forfeitures whatsoever, which shall be set, imposed, lost or forfeited in his Majesty's Courts of King's Bench, Common Bench, or Exchequer, shall be certified and estreated into the said Court of Exchequer twice every Year*

Fines, &c. imposed in the Court of King's Bench, Common Bench, or Exchequer, to be estreated into the Court of Exchequer twice every Year, viz.

yearly

Hilary Term.

Trinity Term.

yearly (that is to say) all Fines, &c. paid or to be paid in Lieu or Satisfaction of them, or any of them, and all other Forfeitures whatsoever, arising in any of the said Courts, from the Beginning of every Hilary Term in every Year, to the Beginning of every Trinity Term in every Year, shall be certified and estreated into the said Court of Exchequer, the last Day of every Trinity Term in every Year.

Every Officer and Minister to whom it doth, ought, or shall belong, &c. to make Certificate or Estreat of any the said Fines or Forfeitures, making Default, to
 50 l. Penalty
 Officer making
 Default. forfeit and pay fifty Pounds for every Default or Failure; one

Moiety to the Use of his Majesty, &c. and the other to such Persons that shall or will sue for the same in any Court of Record, by Action of Debt, Bill, or Information, wherein no Wager of Law, Essoin, or Protection shall be allowed.

Provided, That nothing in this Act shall alter or change the Course used in
 Saving out of
 the Act. the certifying or estreating of Issues from the said Court of Common Bench, nor of Fines pro Licentia Concordandi, commonly called Post-Fines, being Termly certified and estreated in the said Court of Exchequer, nor the Termly estreating Issues cer-

certified out of the Office of Pleas belonging to the said Court of Exchequer, to the Clerk of Eſtreats there.

That all Fines, &c. ſet, impoſed, loſt, or forfeited before a Judge of Aſſiſe, Clerk of the Market, or Commiſſioners of Sewers throughout England, ſhall be eſtreated into the ſaid Court of Exchequer twice in every Year

Fines before Judge of Aſſiſe, Clerk of Market, Commiſſioners of Sewers, to be eſtreated twice a Year.

(that is to ſay) from the Feaſt of Saint Michael the Archangel in every Year, to the Feaſt of Eaſter in every Year, ſhall be certified and eſtreated into the ſaid Court of Exchequer, before the firſt Day in Trinity Term in every Year.

Persons making Default forfeit fifty Pounds, recoverable as above.

Forfeiture.

The Method of obtaining a QUIETUS for an Eſtreated Recognizance, in the Court of Exchequer, and the Forms of Certificates upon Conſtats.

NOTwithstanding Recognizances are forfeited and eſtreated, when the Parties bound do neglect to perform the Conditions; yet the Court of Exchequer (when there appears no obſtinate or wilful Neglect) will grant Orders

Orders for *Quietus*. The Method to obtain such Orders is in Manner following :

You must first get a *Constat* of the estreated Recognizance from the *Pipe-Office* (for which you pay 5 s. 4 d.) then carry the *Constat* to the Clerk of the Peace of the County, where the Recognizance became forfeited, who will make out a Certificate (how the same became forfeit) upon the Back, or Bottom of the *Constat*, for which, in *Middlesex*, you pay but 2 s. 6 d.

The Form of a Certificate where the Party is bound to answer, and no Indictment exhibited.

To the Right Honourable Sir Thomas Parker, Lord Chief Baron of his Majesty's Court of Exchequer, and the Rest of the Barons of that Honourable Court.

Middlesex. THESE are to certify, That at the Session above-mentioned *Thomas Burdus*, Esq; then and yet one of his Majesty's Justices of the Peace for the County of *Middlesex*, did certify the Recognizance above specified, conditioned for the personal Appearance of the above-named E. G. at the same Session to answer to all such Matters of Misdemeanor, as on his Majesty's Behalf should be then and there objected against him by A. L. for assaulting, beating, and wounding of her; at which same Session the said E. G. did not

The Condition of the Recognizance must be set forth.

not appear, according to the Condition of the said Recognizance, whereby the same became forfeited, and was accordingly estreated into his Majesty's Court of *Exchequer*: And these are further to certify, that upon Search made among the Records of my Office, I do not find any Indictment against the said E. G. for the said Offence. Dated the——Day of *November* 1747.

——Waller, Clerk of the Peace
for the County of *Middlesex*.

The Form of a Certificate where the Party neglects to prosecute and give Evidence.

To the Right Honourable, &c. (directed as in the former)

Middlesex. THESE are to certify, That at the Session above-named, *Robert Dennet, Esq;* then and yet one of his Majesty's Justices of the Peace for the County of *Middlesex*, did certify the Recognizance in part above specified, wherein the above named N. S. and T. B. were severally bound in forty Pounds each, upon Condition, *that the said N. S. and T. B. should personally appear at the same Sessions, to prosecute the Law with effect, and give Evidence upon a Bill of Indictment to be exhibited by them to the Grand Jury against A. D. on a violent Suspicion of stealing, out of the House of the said N. S. a Firkin of Soap, which was found in the Custody of the said A. D. and*

The Condition,
&c.
if

I

if the said Bill should be found and returned by the Grand Jury to be a true Bill, then they were to appear at the Sessions of Gaol-Delivery of Newgate, to be holden for the same County, to prosecute and give Evidence against the said A. D. upon the said Indictment, for the Offence aforesaid; at which same Session of the Peace the said N. S. and T. B. did not, nor either of them did appear, and prosecute, and give Evidence against the said A. D. according to the Condition of the said Recognizance; nor did they, or either of them, exhibit to the Grand Jury any Bill of Indictment against the said A. D. for the said Offence; whereby the said Recognizance became forfeited, and was accordingly estreated into his Majesty's Court of Exchequer. Dated the——Day of——1746.

——Waller, Clerk of the Peace for the County of Middlesex.

The Form of a Certificate, where the Party neglects to appear at the proper Session he is bound to answer, at which Time he is indicted for the Offence, and comes at a Session subsequent to the Forfeiture of his Recognizance, and confesses the Indictment.

To the Right Honourable, &c. (directed as in the first.)

THESE are to certify, that at the Sessions (*when by Indorsement*) within mentioned, the within J. B. stood bound by his

his Recognizance within specified, conditioned
for the personal Appearance of the
said J. B. at the same Session to an-
swer what should be objected a-
gainst him by J. W. one of the Headboroughs of
the Parish of St. Leonard Shoreditch, for insult-
ing and assaulting him in the Execution of his
Office. And these are further to certify, that
at the same Session, the said J. B. was indicted
for the Offence aforesaid, at which same Ses-
sion the said J. B. did not appear, pursuant
to the Condition of the said Recognizance,
whereby the same became forfeited, and was
accordingly estreated into his Majesty's Court
of Exchequer. And these are further to cer-
tify, that after the said Recognizance was so
estreated, to wit, at the General Quarter Ses-
sion of the Peace, holden at Hicks's-Hall, in
St. John Street, in and for the County of
Middlesex, on the Day of
1747, the said J. B. came into Court and
confessed the said Indictment, and was fined
three Shillings and four-pence, which he paid
to the Sheriff of the said County in Court.
And these are further to certify, that upon
Search made among the Records in my Office,
I do not find any other Indictment against the
said J. B. Dated the Day of 17
 Waller, Clerk of the Peace for
the County of Middlesex.

The Condi-
tion, &c.

When you have got a Constat and Certifi-
cate, you must have Affidavits, to shew the

Court of *Exchequer* what Impediment prevented the Party from performing the Condition of his Recognizance, upon which you must move the Court by Council ; and if there be any reasonable, or equitable Cause assigned, the Court will order a *Quietus*, which Order is made out by the Deputy Remembrancer (whose Office is in the *King's-Bench Walks*, in the *Temple*) to whom, for the Order, you pay two Pounds eleven Shillings : When you have got the Order from the Remembrancer's Office, you must carry the same to the Pipe Office, in *Gray's-Inn*, and the Clerk of the Pipe thereupon makes a *Quietus*, for which you pay one Pound twelve Shillings.

When Clerks of the Peace, &c. are to deliver their Estreats.

By Stat, 22, & 23 C. 2. c. 22. 'tis enacted, *That all Clerks of the Peace, & Town Clerks, within England, shall make and deliver to the Sheriff or Sheriffs of the County, City or Town Corporate, where the Sessions of the Peace are kept, within twenty Days after the twenty-ninth Day of September, in every Tear yearly, a perfect Estreat, or Schedule of all Fines, Issues, &c. set, lost, or forfeited, in any of the said Sessions of Peace respectively, which shall be held before Michaelmas by or upon any Person or Persons whatsoever, due to his Majesty ; and also on or before the second Monday after the Morrow of All-Souls, make and deliver unto the said Court of Exchequer,*

chequer, a true and perfect duplicate Certificate and Estreat, of such Estreats so delivered to the Sheriffs aforesaid. That the Sheriffs may be charged with the Monies levied and received, on Pain that every such Person offending herein, for every Default, to forfeit fifty Pounds, one Moiety to his Majesty, and the other to such as will sue for the same, to be recovered as above.

Officers withholding any Fine &c. forfeits treble the Value.

This Act was made perpetual by Stat 4 & 5 W. & M. c. 24.

Record of Acquittal for Felony, where the Defendants are under Recognizance to appear.

Middlesex. **B**E it remembred, that at the General Quarter Session of the Peace of our Sovereign Lord the King, holden for the County of *Middlesex*, at *Hicks's Hall*, in *St. John-street*, in the same County, on *Monday*, the third Day of *December*, in the Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. before *Thomas Lane*, *John Milner*, *Edward Barker*, Esqrs; and others their Fellows Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, by the Oath of *John Forster*, Gentleman, &c. (all the Names of the Grand Jury) good and lawful

Grand Jury: G 2

lawful Men of the County aforesaid, then and there sworn and charged to inquire for our said Lord the King, for the Body of the said County. It is presented in Manner and Form as followeth; that is to say, *Middlesex*. The Jurors, &c. (*recite the whole Indictment*) Whereupon the Sheriff of the County aforesaid, is commanded that he do not omit, by Reason of any Liberty in his Bailiwick; but that he take the said *W. W.* and *E. L.* to answer to the Premises, which said Indictment, the said Justices of the Peace, afterward, to wit, at the Delivery of the Gaol of our said Lord the King, of *Newgate*, holden for the County aforesaid, at *Justice Hall*, in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the sixteenth Day of *January*, in the said Year of the Reign of our said now Lord the King, before Sir *Robert Ladbroke*, Knight, Mayor of the City of *London*, Sir *Thomas Parker*, Chief Baron of the *Exchequer* of our said Lord the King, *Thomas Burnet*, Esq; one of the Justices of our said Lord the King, of the *Common Pleas*, *Stracy*, Esq; and others their Fellows, Justices of our said Lord the King, assigned to deliver his Gaol of *Newgate* of the Prisoners therein being, by their proper Hands do deliver here in Court of Record, in Form of Law to be determined; and thereupon at the same Delivery of the Gaol of our said Lord the King of *Newgate* aforesaid, holden for the County aforesaid, at *Justice Hall* aforesaid, on the said *Wednesday*, the six-

sixteenth Day of *January*, in the Year afore-
 said, before the Justices of our said Lord the
 King, last above named, and others their Fel-
 lows afore said, Come the said
W. W. and *E. L.* pursuant to
 Recognizances by them, and their
 Pledges in this Behalf first en-
 tred into, being brought to the
 Bar here in their proper Persons, who are com-
 mitted to *Thomas Winterbottom*, Esq; and
Robert Alsop, Esq; Sheriff of the said County of
Middlesex, and they the said *W. W.* and *E. L.*
 forthwith concerning the Premisses in the said
 Indictment above specified and charged on
 them as above, being severally asked in what
 Manner they would be acquitted thereof, do
 severally say, that they are Not Guilty there-
 of; and hereupon for Good and
 Ill, they severally put them- Plea.
 selves upon the Country; there-
 fore let a Jury thereupon immediately come
 before the said Justices of our said Lord the
 King last above named, and others their Fel-
 lows afore said, here, by whom the Truth of
 the Matter will be the better known, and
 who have no Affinity to the said *W. W.* and
E. L. or either of them, to recognize upon
 their Oath, whether the said *W. W.* and *E. L.*
 be guilty of the Premisses in the Indictment
 afore said, above specified, or not. And the
 Jurors of the said Jury, by the said Sheriff
 for this Purpose impannelled and returned, to
 wit, (*here name all the Petty Jury*) being
 G 3 called,

Where the Par-
 ties are under a
 Recognizance
 to answer for Fe-
 lony.

Petty Jury.

called, come, who being chosen, tried, and sworn to speak the Truth of and upon the Premisses aforesaid, in the Indictment aforesaid, above specified, do say, upon their Oath, that the said *W. W.* and *E. L.* are not, nor either of them is guilty of the Premisses aforesaid, in the Indictment aforesaid, above specified, in Manner and Form as the said *W. W.* and *E. L.* for themselves above by their Plea, have severally alledged; nor did they withdraw themselves, nor did either of them withdraw himself on that Occasion; upon which it is considered by the Court here, that the said *W. W.* and *E. L.* and each of them, of the Premisses aforesaid, in the Indictment aforesaid, above specified, be discharged, and go without Day.

Cometh the said *A. N.* in his proper Person, and rendreth himself a Prisoner to the King's said Gaol of *Newgate*, for the County of *Middlesex* aforesaid under the Custody of *T. W.* Esq; and *R. A.* Esq; Sheriff of the said County of *Middlesex*, on that Occasion, which said *A. N.* being brought to the Bar here by the said Sheriff, is committed to the same Sheriff, &c. and forthwith, &c. *as above.*

Cometh the said *H. T.* under the Custody of *R. A.* Esq; and Sir *H. H.* Kt. Sheriff of the said County (into whose Custody in the Gaol of our said Lord the King, of *Newgate*,

If the Party
surrenders
himself.

If the Party
was committed
and continues in
Custody 'till
Trial.

gate, for the Cause aforesaid, he was before committed) being brought to the Bar here in his proper Person, who is committed to the said Sheriff, &c. and forthwith, &c. *as above.*

*Record of Conviction, Felony and Robbery,
where the Defendant is in Custody.*

Middlesex. **B**E it remembred, that at the General Quarter Session of the Peace, holden for the County of *Middlesex*, at *Westminster* in the said County, on *Monday*, the second Day of *April*, in the Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, before *Thomas Lane*, Esq; Sir *Edward Lawrence*, Kt. *Thomas Burdus*, Esq; and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County, and also to hear and determine diverse Felonies, Trespases and other Misdeeds, committed in the same County, that the Session of the Peace is adjourned by the said Justices of our said Lord the King, and others their Fellows aforesaid, here, until *Tuesday* the third Day of *April*, in the Year aforesaid, at nine of the Clock in the Forenoon of the same Day, at *Hicks's-Hall*, in *St. John-Street*, in the said County, then and there to be held, to do further as the Court there should consider, and so forth. And on the said *Tuesday*, the third

Caption of the
Court of Session
of the Peace.

Adjournment.

Day of *April*, in the Year aforesaid, that General Session of the Peace was holden by Adjournment aforesaid, for the said County, at *Hicks's-Hall*, aforesaid, in the said County, before the Justices above-named, and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County, and also to hear and determine diverse Felonies, Trespasses, and other Misdemeanors, committed in the said County; at which same General Quarter Session of the Peace, holden by Adjournment aforesaid, at *Hick's-Hall*, aforesaid, in and for the County aforesaid, before the same Justices of our said Lord the King, above-named, and others their Fellows aforesaid, upon the Oath of *Thomas Mills*,

Grand Jury. *Gent. Thomas Corderoy, Nathaniel Crosey, James Murrey, William Hutson, James Miller, John Gillum, Samuel Gould, Samuel Isaac Colenso, John Hunter, John Hains, John Walker, William Shepherd, John Underwood, John Stephens, Peter Buckmaster, William Priest, Richard Wyer, John Quarrel, Joseph Coggin, and John Griffis*, good and lawful Men of the County of *Middlesex* aforesaid, then and there sworn and charged to enquire for our said Lord the King, for the Body of the County aforesaid. It is presented in Manner and Form as followeth; that is to say, *Middlesex*, The Jurors for our Lord the King upon their Oath present, That *John Jackson*, late of the Parish at *St. Giles's Cripplegate*,

Cripplegate, in the County of *Middlesex*, Labourer, on the seventh Day of *September*, in the Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County of *Middlesex* aforesaid, in the King's Highway there, in and upon one *James Wilson*, in the Peace of God, and our said Lord the King, in the said Kings Highway, then and there being, feloniously did make an Assault, and him the said *James Wilson* in bodily Fear and Danger of his Life in the Highway aforesaid, then and there feloniously did put, and one silver Watch, of the Value of three Pounds, and twenty Shillings in Monies numbered, of the Goods, Chattels, and Monies of the said *James Wilson*, from the Person and against the Will of him the said *James Wilson*, in the Highway aforesaid, then and there violently and feloniously, did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity ; wherefore the Sheriff of the County aforesaid, is commanded not to omit, for any Liberty in his Bailiwick, but take the said *John Jackson*, to answer to the Premises, which said Indictment the said Justices of the Peace, afterward, to wit, at the Delivery of the Gaol of our said Lord the King of *Newgate*, holden for the County aforesaid,

Indictment.

Capias awarded.

*Caption of the
Court of Gaol
Delivery.*

aforesaid, at *Justice-Hall*, in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday* the fourth Day of the same Month of *April* in the Year aforesaid, before Sir *Robert Ladbrooke*, Kt. Mayor of the City of *London*, *Charles Clarke*, Esq; one of the Barons of the *Exchequer* of our said Lord the King, Sir *John Bernard*, Sir *Richard Hoare*, Kts. Aldermen of the City of *London*, and others their Fellows Justices of our said Lord the King, assigned to deliver his Gaol of *Newgate*, of the Prisoners therein being, by their proper Hands to deliver here in Court of Record, in Form of Law, to be determined, and thereupon at the same Delivery of the Gaol of our said Lord the King of *Newgate* aforesaid, holden for the County aforesaid, at *Justice-Hall* aforesaid, on the said *Wednesday*, the fourth Day of *April*, in the Year aforesaid, before the said Justices of our said Lord the King last above-named, and others their Fellows aforesaid, Cometh the said *John Jackson*, under the Custody of *Thomas Winterbottom*, Esq; and *Robert Alsop*, Esq, Sheriff of the County aforesaid, (in whose Custody in the Gaol of *Newgate* aforesaid, for the Cause aforesaid, he had been before committed) being brought to the Bar here in his proper Person, is committed to the said Sheriff, and forthwith, concerning the Premises in the said Indictment above specified, and charged on him as above, being asked in what Manner he would

would be tried thereon; the said

John Jackson saith, that he is *Prisoner's Plea.*

Not Guilty thereof, and concerning this for good and ill, he puts himself upon his Country; therefore let the Jury thereupon immediately come before the said Justices of our said Lord the King, last above-named, and others their Fellows aforesaid here, and who are of no Affinity to the said *John Jackson*, to recognize, upon their Oaths, whether the said *John Jackson* be guilty of the Felony and Robbery aforesaid, or not; and the Jurors of the said Jury, by the said Sheriff to this Matter impannelled, and returned (to wit) *Thomas Wyton, Thomas Russel, Joseph Wooton, William Palmer, John*

Petty Jury.

Newman, John Ball, William Covey, Thomas Day, John Philmore, John Tredwell, Thomas Dovey, and John Hall, being called, come, who being chosen, tried, and sworn to speak the Truth of and concerning the Premises, aforesaid, say upon their Oath, that the said *John Jackson* is guilty of the Felony and Robbery aforesaid, in *Verdict.*

the Indictment specified, charged upon him above in Manner and Form as by the said Indictment above against him is supposed; and that he at the Time of committing the said Felony and Robbery, or at any Time since, had no Goods or Chattels, Lands or Tenements, to the Knowledge of the said Jurors; and upon this it is required by the Court here,

of

of the said *John Jackson*, if he hath, or knows any thing to say for himself, why the Court here ought not to proceed to Judgment and Execution concerning him upon the said Verdict, who says nothing, besides, what at first he had said ; whereupon all and singular the Premisses being seen and understood by the Court here ; it is considered by the Court here, that the said *John Jackson* be hanged by the Neck, until he be Dead.

Judgment.

Record of the Discharge of a Recognizance at the General Quarter Session of the Peace.

Caption of the Court.

BE it remembred, that at the General Quarter Session of the Peace of our Sovereign Lord the King, holden at *Hicks's-Hall*, in *St. John-Street*, in and for the County of *Middlesex*, on *Monday* the twenty-fifth Day of *June*, in the Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, France, and Ireland*, Defender of the Faith, before *Thomas Lane*, Esq; *Sir Edward Lawrence*, Kt. *Thomas Burdus*, Esq; and others their Fellows Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdemeanors committed in the same County, *James Fraser*,

Frazer, Esq; then one of the Justices of our said Lord the King, assigned to keep the Peace in

The Justice who takes the Recognizance.

the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, doth certify and deliver here in Court a certain Recognizance taken before him,

the third Day of *May*, One thousand seven hundred and forty-seven, of Record, to be determined in Form of Law, the Tenor

The Date of the Recognizance.

Recital of the Recognizance.

of which same Recognizance is as followeth ; *Middlesex*, *Joseph Dubois*, of *Bishop's-Court, Chancery-Lane*, in the Parish of *St. Dunstan in the West*, Watch-Maker, doth acknowledge to owe to our Sovereign Lord the King, the Sum of forty Pounds ; *Edward Hussy*, and *Joseph Boyce* of the same Place, Gold Chain-Makers, severally the Sum of twenty Pounds, on Condition, that the said *Joseph Dubois* shall personally appear at the next General Quarter Session of the Peace, to be holden at *Hicks's-Hall*, in *St. John-Street*, for the said County, to answer to all such Matters of Misdemeanor, as on his Majesty's Behalf shall be then and there objected against him by *Henry Mortimer*, for cheating and defrauding him of Diamonds of the Value of forty Pounds, or thereabout, under false Colours and Pretences, and not Depart the Court without Licence, then this Recognizance to be void, otherwise in full Force ; and afterward, to wit, at the same

same General Quarter Session of the Peace of our said Lord the King, holden for the County aforesaid, at *Hicks's-Hall*, in *St. John-Street*, in the County aforesaid, on the said *Monday* the twenty-fifth Day of *June*, in the Year aforesaid, before the aforesaid Justices of our said Lord the King, and others their Fellows aforesaid, being the next General Quarter Session of the Peace, holden for the County aforesaid, after the said third Day of *May*, One thousand seven hundred and forty seven, the aforesaid *Joseph Dubois* cometh in his own proper Person, and thereupon publick Proclamation is made, that if any one would inform the said Justices here against the said *Joseph Dubois*, he might come forth and be heard; and because the aforesaid Justices and Court here, do find nothing ill of him the said *Joseph Dubois*, it is considered by the Court here, that the said *Joseph Dubois* be discharged of his Recognizance aforesaid, and that he go thereof without Day.

Record of Conviction of a Person for keeping a disorderly House, upon the Commission of Oyer and Terminer at Sessions.

Middlesex. **B**E it remembered, That at the Session of *Oyer and Terminer* of our Sovereign Lord the King holden at *Hicks's-Hall* in *St. John-Street* in and for the County of *Middlesex*, on *Monday* the eighth Day of *July*, in the Year of the Reign of

of our Sovereign Lord George the Second, King of *Great Britain*, &c. before *Thomas Lane*, *Edward Barker*, *John Milner*, Esqrs; and others their Fellows Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain*, to the same Justices above named, and others, and any four or more of them, directed to inquire more fully the Truth, by the Oath of good and lawful Men of the said County of *Middlesex*, and by other Ways, Means and Methods by which they should or might better know (as well within Liberties as without) by whom the Truth of the Matter may be better known, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms or Dominions whatsoever? and of all Murders, Felonies Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, Conventicles, unlawful uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespases, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenances, Oppression, Champerty, Deceits, and all other Evil Doings, Offences, and Injuries whatsoever; and also of the Accessories of them, within the County aforesaid (as well within Liberties as without) by whomsoever

whomsoever, and in what Manner soever done, committed or perpetrated, and by whom or to whom, when, how and after what Manner, and of all other Articles and Circumstances concerning the Premises, and every of them, or any of them in any Manner whatsoever; and the said Treasons, and other the Premises, to hear and determine, according to the Laws and Customs of *England*, by the Oath of (*here insert the Names of all the Grand Jury*) good and lawful Men of the said County of *Middlesex*, then and there sworn and charged to inquire for our said Lord the King for the Body of the said County, it is presented in Manner and Form as followeth, to wit, *Middlesex*, The Jurors, &c. (*here insert the Indictment verbatim*) whereupon the Sheriff of the said County of *Middlesex* is commanded that he cause the said *A. B.* to come to answer, &c. And afterwards, to wit, at that same Session of *Oyer and Terminer* of our said Lord the King holden at *Hick's Hall* in *St. John-Street* aforesaid, in and for the said County of *Middlesex*, by Adjournment, on *Wednesday* the Tenth Day of the same Month of *July*, in the Year aforesaid, before the Justices of our said Lord the King, above named, and other their Fellows aforesaid, cometh the said *A. B.* in his own proper Person, and having heard the said Indictment read, the said *A. B.* saith, that he is not Guilty thereof, and concerning thereof he putteth himself upon the Country; and

and — *Waller*, Esq; Clerk of the Peace for the County aforesaid, who prosecutes for our said Lord the King in this Behalf doth the like ; therefore let a Jury thereupon come before the Justices of our said Lord the King at the next Session of *Oyer and Terminer* of our said Lord the King, to be holden at *Hicks's-Hall* in *St. John-Street* aforesaid, in and for the said County of *Middlesex*, by whom the Truth of the Premisses may be better known, and who are of no Affinity to the said *A. B.* to recognize, upon their Oath, if the said *A. B.* be guilty of the Premisses aforesaid or not ; because as well the said — *Waller*, who prosecutes for our said Lord the King in this Behalf, as the said *A. B.* have put themselves on that Jury ; the same Day is given as well to the said — *Waller*, Esq; who prosecutes for our said Lord the King in this Behalf, as to the said *A. B.* ; at which said next Session of *Oyer and Terminer*, to wit, at the Session of *Oyer and Terminer* of our said Lord the King, holden at *Hicks's Hall*, in *St. John Street*, aforesaid, in and for the said County of *Middlesex*, on *Monday* the twenty-sixth Day of *August*, in the said — Year of the Reign of our said Lord the King, before *Thomas Lane*, Esq; *Edward Barker*, Esq; *Sir William Ogborne*, Kt. *John Milner*, Esq; and others their Fellows, Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain*

to the same Justices last above-named, and others, and any four or more of them, directed to inquire more fully the Truth, by the Oath of good and lawful Men of the said County of *Middlesex*, and by other Ways, Means, and Methods, by which they should or might better know (as well within Liberties as without) by whom the Truth of the Matter may be better known of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms or Dominions whatsoever; and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, Conventicles; unlawful uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespases, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligences, Concealments, Maintenance, Oppression, Champerty, Deceits, and all other evil Doings, Offences, and Injuries whatsoever; and also of the Accessories of them within the County aforesaid (as well within Liberties as without) by whomsoever and in what Manner soever done, committed, or perpetrated; and by whom or to whom, when, how, and after what Manner; and of all other Articles and Circumstances concerning the Premises, and every of them, or any of them in any Manner whatsoever; and the said Treasons and other the Premises to hear and determine according to the Laws and Customs

Customs of *England*, Cometh as well the said
 — *Waller*, who prosecutes for our said
 Lord the King, in this Behalf, as the said *A. B.*
 in his own proper Person; and the Jurors of
 that Jury, by *T. N. Esq;* and *I. B. Esq;* She-
 riff of the said County of *Middlesex*, to this
 Matter impannelled and returned, to wit, (*the*
Petty Jury) being called, come,

who being chosen, tried, and
 sworn to speak the Truth of and
 upon the Premises in the Indict-

The Names of
 all the Petit
 Jury.

ment aforesaid, above specified, do say, upon
 their Oath, * that the said *A. B.* is Guilty of the
 Trespass and Offence aforesaid, in the Indict-
 ment aforesaid, above specified, in Manner and
 Form as by the said Indictment above against
 him is alledged, whereupon it is considered
 by the Court here, that the said

A. B. for the Trespass and Of- Judgment.

fence aforesaid, in the Indictment
 aforesaid, above specified, be taken, &c. which
 said *A. B.* being present here, is fined for
 the said Trespass and Offence, three Shillings
 and Four-pence, which he paid to the Sheriff
 of the said County of *Middlesex*, in Court
 here, to the Use of our said Lord the King,
 in Court; and the said *A. B.* is committed to
 the House of Correction, at *Clerkenwell*, in
 the said County of *Middlesex*, there to re-
 main, and be kept to hard Labour for the
 Space of six Calendar Months.

* *On an Acquital.*

If the Defendant be acquitted.

That the said *A. B.* is Not Guilty of the Trespass and Offence aforesaid. in the Indictment aforesaid above specified, in Manner and Form as by the said Indictment above against him is supposed ; whereupon it is considered by the Court here, that the said *A. B.* of the Trespass and Offence aforesaid, in the Indictment aforesaid above specified, be discharged, and go thereof without Day.

Record on the Commission of the Peace.

Note, If the Offence be on the Commission of the Peace, you must say, “ *Middlesex.* Be
 “ it remembered, That at the General (or
 “ General Quarter) Session of the Peace of
 “ our Sovereign Lord the King, holden at
 “ *Hicks’s Hall* in *St. John Street*, in and for
 “ the County of *Middlesex*, on the
 “ Day of in the
 “ Year, &c. before *N N, K K, R R*, and
 “ *Z Z*, Esqrs, Justices of our said Lord the
 “ King, assigned to keep the Peace in the
 “ County of *Middlesex* aforesaid, and also
 “ to hear and determine diverse Felonies,
 “ Trespasses, and other Misdemeanors committed
 “ in the same County, by the Oath of (*the Grand Jury*) so go on throughout the Record ; and instead of *Oyer and Terminer*, say, *Session of the Peace* ; and of the Words, *assigned by Letters Patent*, &c. say, *assigned to keep the Peace*, &c

T H E

T H E
O F F I C E
O F T H E
Custos Rotulorum.

The Manner of appointing the Custos Rotulorum.

TH E CUSTOS ROTULORUM is he that hath the Keeping of the Rolls or Records of the Sessions of the Peace, and of the Commission of the Peace. He is always a Justice of the Peace and *Quorum*, in the County where he hath his Office; and by his Office he is rather termed an Officer, or Minister, than a Judge, because the Commission of the Peace lays this special Charge, by express Words, upon him, *That he should cause the Writs, Precepts, Process, and Indictments, to be before him and his Fellow Justices, &c.*

Before the making of the Statute 37 H. 8. c. 1. the Lord Chancellor of *England* for the

H 3

Time

102 *Of the Custos Rotulorum.*

Time being, had, by reason of his Office, the Nomination and Appointment of the *Custos Rotulorum* within every Shire of *England* and *Wales*, and other the King's Dominions, &c. and in like Manner, every Person, who enjoyed the Office of *Custos Rotulorum*, had till then of late the Nomination and Appointment of *Clerk of the Peace*, within the Shire where he enjoyed the said Office of *Custos Rotulorum*; and sundry Persons not learned in the Law, nor able, for want of Knowledge and Learning, to occupy and exercise the said Office of *Custos Rotulorum*, and of the Clerkship of the Peace, had by various Means, got, for the Term of their Lives, of the King's Majesty, several Grants, by his Letters Patent to them made, of such Clerkships of the Peace; by reason whereof, and for that the Parties to whom the said several Grants had been so made, not being sufficiently learned to execute their Offices, many Indictments, as well of Felony, Murder, and other Offences and Misdemeanors, and the Process awarded upon the same Indictments, had been frustrated and made void, sometimes by reason of the negligent Engrossing and Keeping of the said Indictments, and sometimes by reason of the Imbefiling or Rasure of the Indictments; but also diverse Bargains and Sales of Manors, Lands and Tenements, had and made between Party and Party, became frustrate and void, for want of sufficient Enrolment thereof, by the Clerks of the
Peace

Of the Custos Rotulorum. 103

Peace, to the great Hindrance of Justice, and to the Disinheritance of diverse of the King's Subjects: For Reformation whereof, by the said Statute 37 H. 8. c. 1. 'tis enacted, *That no Person shall be nominated and appointed to the said Office and Offices of Custos Rotulorum, within any Shire of England, Wales, and other the King's Dominions, &c. but such as shall have a Bill signed with the King's Hand for the same; which Bill signed shall be a sufficient Warrant, by the Authority-aforesaid, to the Lord Chancellor of England, and the Lord Keeper of the Great Seal, for the Time being, to make from Time to Time, Commission or Commissions, assigning and authorizing thereby the same Person to be Custos Rotulorum, until the King hath by another Bill, assigned with his own Hand appointed and ordained one other Person to have, occupy, and exercise the same Office of Custos Rotulorum; and that the said Person appointed and assigned to be Custos Rotulorum, as is above-said, shall and may occupy exercise and enjoy the same Office of the Custos Rotulorum, by himself, or by his sufficient Deputy, learned in the Laws of this Realm, and meet and able to supply the said Office, according to the Tenor of the said Grant and Commission. And further, That every Custos Rotulorum for the Time being, shall, in every Shire of this Realm, Wales, and other the King's Dominions, &c. nominate, elect, appoint, and assign, all and every Person and Persons which thereafter*

104. Of the Custos Rotulorum.

shall be Clerks of the Peace within any of the said Shires of this Realm of England Wales, and other the King's Dominions, &c. and to give and grant the said Office and Offices of Clerkship of the Peace, to such able Person instructed in the Laws of this Realm, as shall be able to exercise and occupy the same, to hold and enjoy the same during the Time that the said Custos Rotulorum should occupy and exercise the aforesaid Office of Custos Rotulorum; so that the said Clerk demean himself justly and honestly. And that it shall be lawful to every such Grantees of the said Clerkship, to occupy and enjoy the same Office of the Clerkship of the Peace by himself, or his sufficient Deputy, instructed in the Laws of this Realm, so that the said Deputy shall be admitted, taken, and reputed by the said Custos Rotulorum, to be sufficient and able to exercise, occupy, keep and enjoy the same Office of Clerkship of the Peace.

Provided, that the Archbishop of York, the Bishop of Durham, the Bishop of Ely, and every of their Successors, and all and every Person or Persons, Corporations and Bodies incorporated to whom the King's Majesty, or any of his noble Progenitors, by his or their Letters Patent, have given and granted any Liberty and Authority, or otherwise have Authority by other lawful Means or Ways, to ordain, make and constitute any of the said Officers of Custos Rotulorum, or Clerk of the Peace, within any County Palatine or other place

Of the Custos Rotulorum. 105

Place, shall and may have and enjoy the same Liberty and Authority, according as they before had and enjoyed the same, any Thing in the said Act made to the contrary notwithstanding.

By the Stat. 1. Will. & Mar. Stat. 1. c. 21.

§. 5. The Custos Rotulorum, or other Person, to whom it shall belong to appoint the Clerk of the Peace, shall, where the Office of Clerk of the Peace, shall be void, nominate a sufficient Person residing in the County or Place, to exercise the same by himself or his sufficient Deputy, for so long Time as such Clerk of the Peace shall well demean himself in his Office.

If any Clerk of the Peace shall misdemean himself in his Office, the Justices of the Peace, in their General Quarter Sessions, or the major part of them, upon Complaint in Writing exhibited against him, may, upon Examination, and due Proof thereof, suspend or discharge him: And in such Case, the Custos Rotulorum, or other Person to whom of Right it shall belong, shall appoint another Person residing within the same County, &c. to be Clerk of the Peace in his Room; and in case of Neglect or Refusal, to make such Appointment before the next General Quarter Session, after such Refusal, the Justices of the Peace, at their General Quarter Sessions, may appoint one.

How Clerk of the Peace is removeable.

Provided always, That he shall be liable to all the Penalties, Conditions: &c. hereby mentionea

106 Of the Custos Rotulorum.

mentioned and expressed, and may be discharged by the said Justices as aforesaid.

No Custos Rotulorum, or other Person to whom it doth or shall belong to nominate a Clerk of the Peace, shall sell the said Place, directly or indirectly, upon the Penalty that every Custos Rotulorum, or other Person so selling, and every Clerk of the Peace so buying, shall be disabled to hold their Places, and forfeit double the Value of what shall be so given or taken, to be recovered by him or them that will sue for the same, to their own Use, by any Action of Debt, Suit, Bill, Plaint or Information, in any of their Majesties Courts at Westminster.

Every Clerk of the Peace, before he enters upon his Office, shall, in open Sessions, take this Oath, viz.

I A. B. do Swear, that I have not, nor will pay any Sum or Sums of Money, or other Reward whatsoever, nor have given any Bond, or other Assurance to pay any Money, Fee, or Profit directly or indirectly to any Person or Persons whomsoever for such Nomination or Appointment.

So help me G O D.

Nothing in this Act relates to the Clerk of the Peace for the Duchy and County Palatine of Lancaster.

The

Of the Custos Rotulorum. 107

*The Form of appointing a Clerk of the Peace
by the Custos Rotulorum.*

WHEREAS the Office of Clerk of the Peace for the *West-Riding* of the County of *York*, is now vacant by the Death of *W. W. Esq;* late Clerk of the Peace of the said *Riding*; KNOW ALL MEN by these Presents, That the Right Honourable ----- Earl of *Burlington*, *Custos Rotulorum* of the said *Riding*, hath nominated, constituted, and appointed, and doth hereby nominate, constitute, and appoint *K. N. Esq;* a Person skilful in the Laws of *England*, and now inhabiting and residing within the said *Riding*, to be Clerk of the Peace of the same *Riding*; to have, hold, execute, and enjoy the Office of Clerk of the Peace of the *Riding* aforesaid, by himself, or his sufficient Deputy or Deputies, and by himself, or such Deputies or Deputies, to have, receive and take to the Use of him the said *K. N.* all Fees, Wages, Perquisites, Advantages, Emoluments, and Appurtenances whatsoever to the said Office belonging or in any wise appertaining, for and during so long Time as the said *K. N.* shall well behave and demean him in the said Office. In Testimony whereof, the said Earl hath hereunto set his Hand and Seal, the
Day of in the
Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. and in the Year of our Lord 17
T H E

T H E
D O C T R I N E
O F
I N D I C T M E N T S.

P A R T II.

AS an Introduction to the subsequent Parts of this Work, it may not be improper to say something concerning the Body of an Indictment, the several Parts thereof, and the Forms requisite therein.

An Indictment is a plain, brief and certain Narrative of an Offence, committed by any Person, and of those necessary Circumstances, that concur to ascertain the Fact and its Nature, according to the Old Rule.

Quis, quando, ubi, quid, cujus, quomodo, quare.

Quis, The Person, with his Name, Surname, addition of the Town, County, Art and Degree.

Quando, The Day and Year.

Ubi, The Place, Town, and County.

Quid,

Quid, The Thing taken, the Colour, the Mark, the Price and Value.

Cujus, The Owner of the Thing, and whose it was.

Quomodo, The Manner of the doing, and how.

Quare. The intent, which is comprised in the Word Felonice.

Formerly every Indictment was in *Latin*, and so were all Pleadings in the Courts of Law; but now by the Statute of 4 *George* 2. c. 26. & *Stat.* 6 *Geo.* 2. c. 6. all Indictments. &c. are to be in *English*; to the end, that they should be in a Language capable of being known and understood by the Parties concerned, whose Lives and Liberties may be affected thereby.

Figures to express Numbers are not allowable in an Indictment; but Numbers must be express'd in Words.

An Indictment, grounded upon an Offence made by Act of Parliament, must, by *express Words*, bring the Offence within the substantial Description thereof, and those Circumstances, mentioned in the Statute to make up the Offence, shall not be supplied by the general Conclusion, against the Form of the Statute.

And so it is, where an Act of Parliament ousts Clergy, in certain Cases, as Murder, of *Malice afore-thought*; Robbery, *in or near a Highway*; stabbing one, *not having struck first, nor having a Weapon drawn*; tho' the Offences

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Offences themselves were at Common Law within Clergy, the Parties if convicted, shall not be ousted of Clergy, unless these Circumstances, as, *of Malice afore-thought, or near a High-way, &c.* be express'd in the Indictment.

If a Statute prohibit any Act to be done, and by a Clause gives a Recovery, by Action of Debt, Bill, Plaint or Information, but mentions not Indictment, the Party may be indicted upon the Prohibitory Clause, and thereupon fined; but not to recover the Penalty as upon the Statute of 3 Jac 1. c. 5. *prohibiting Recusants to baptize their Children by a Popish Priest*; but then the Fine ought not to exceed the Penalty.

But if the Act be not Prohibitory, but only, that if any Person shall do such a Thing, he shall forfeit 5 l. to be recovered by Action of Debt, Bill, Plaint, or Information, he cannot be indicted for it; but the proceeding must be by Action, Bill, Plaint, or Information.

If a Man be indicted for an Offence, which was at Common Law, and concludes *against the Form of the Statute*, but in truth, if it is not brought by the Indictment within the Statute, it may be quashed, and the Party shall not be put to answer it as an Offence at Common Law.

As if a Man be indicted for Drawing his Dagger in the Church-Yard upon *A. B.* against the Form of the Statute, viz. 5 E. 6. c. 4. but

The DOCTRINE III

c. 4. but omits these Words, *with an Intent to strike*, the Indictment shall be quash'd, and the Party not put to answer the Assault at Common Law upon the same Indictment.

So if Men be indicted for a riotous and forcible Entry, against the Form of the Statute, *viz.* 8 H. 6. c. 9. and the Statute is misrecited, they shall not be put to answer the Offence at Common Law; but that Indictment shall be quash'd.

If a Man be indicted *for that he stole, &c.* and says not *feloniously*, the Indictment imports but a Trespass, and the Offender may be put to answer it as a Trespass.

If an Act of Parliament making a Felony or other Offence be but temporary, and made perpetual by another Statute, the Indictment concluding *against the Form of the Statute* is good.

If there be several Offenders that commit the same Offence, tho' in Law they are several Offences, in relation to the *several Offenders*; yet they may be joined in one Indictment, as if several commit Robbery, Burglary or Murder.

The requisite Parts in an Indictment are,

- I. *The Name and Addition of the Indicttee.*
- II. *The Day and Year of committing the Offence.*
- III. *The Parish, Precinct, Hamlet, or Place where committed.*
- IV. *Upon or against whom committed.*
- V. *The*

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V. *The Manner of doing it.*

VI. *The Fact itself, and the Nature of it.*

VII. *The Conclusion.*

I. *As to the Name and Addition of the Party indicted.*

This regularly ought to be inserted truly in every Indictment; but if the Party be indicted by a wrong Christian Name or Addition, and he plead to that Indictment, Not Guilty or answer to that Indictment upon his Arraignment, by that Name, he shall not be allowed after to plead a *Misnomer*, or Falsity of his Addition; for he is concluded and estop'd by his Plea, by that Name.

But he that will take Advantage of the Misnomer of his Christian Name, Surname, or Addition, must do it upon his Arraignment.

The Misnaming of the Surname of the Offender in an Appeal, is a good Plea in Abatement; but tho' the Surname be mistaken in an Indictment, yet it shall not abate.

But the Mistake of the Christian Name is pleadable as well on an Indictment, as on an Appeal, and the Party shall be dismiss'd from the Indictment: But then the Party must plead his true Christian Name, by which he may be indicted *de novo*, and the Grand Jury may find another Bill.

By the Stat. 1 H. 5. c. 5. in all Indictments, &c. the Party indicted ought to have the Addition of his Mystery, Degree, Place, and County. If

If a Party be indicted without an Addition, or a false one, and upon that Indictment outlawed, he may avoid the outlawry by Writ of Error.

But altho' there be no Addition, yet if he appear and plead *Not guilty*, without taking the Advantage of that Defect, the Indictment is affirmed, and the Want of Addition salved.

Single Women is a good Addition; so is Widow; so is the Wife of J. S. of, &c.

An Indictment against a Peer of the Realm is good without an Addition; because no Process of Outlawry lies against him.

An Indictment against Inhabitants of a Parish for not repairing a Highway; is good without naming any Person incertain.

If several Persons be indicted for one Offence, Mis-nomer, or want of Addition of one, quasheth the Indictment only against him, but the Rest shall be put to answer, according to 2. *Hale's H. P. C.* 177 but 2. *Hawkins's P. C.* 231. *contra.*

II. *Touching the Time, to wit, the Year and Day wherein the Fact was committed.*

Tho' the Day be inserted, if the Year be omitted, the Indictment is insufficient.

If a Man be indicted, for that he on the first Day of *April*, in the sixth Year, &c. with Force and Arms, did make an Assault upon *K.D.* and him did beat, and says not *then* and there did beat, yet this hath been held
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good

good ; for the *Force and Arms, Day and Place*, named in the Beginning, refer to all the ensuing Acts.

But in an Indictment of Felony, there must be *then and there*, to the Stroke, or to the Robbery, and the Day and Place of the Assault is not sufficient ; and this is in Favour of Life : Therefore 'tis usual to repeat the *then and there* to the several Parts of the Fact, as in Larceny, or Robbery from the Person.

If *K. D.* be indicted, for that he, on such a Day and Year, at such a Place, having in his Right Hand a certain Sword, &c. did strike *R.* and it is not said *then and there did strike*, this is ill ; because the Day and Year, and Place relate only to the having the Sword, not to the Stroke.

In an Indictment for Murder, or Manslaughter, the Day and Place of giving the Stroke, or other Act inducing the Death, and also the Time of the Death must be exprest ; the former, because the Forfeiture of Lands relates thereto ; the latter, because it must appear, that the Death was within the Year and Day after the Stroke, &c.

Where the Time of the Day, or Night, is material to ascertain the Nature of the Offence, it must be exprest in the Indictment. As an Indictment for Burglary ought to say on such a Day, *about the Hour of*
in the Night of the same Day, feloniously
and burglariously did break and enter.

So upon Breaking a House in the Day-time,

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time, to oust the Offender of Clergy, upon the Stat. 39 *Eliz.* c. 15. the Indictment must express, *in the Day-time* (and 'tis usual to say about what Hour the Fact was committed) otherwise the Indictment will not oust the Party of Clergy, tho' it may be otherwise a good Indictment, as to convict him for a Felony within the Benefit of Clergy.

Where an Indictment charges a Man with a bare Omission, as the not scowering such a Ditch, &c. it is said that it needs not shew any Time.

A Conviction of Deer-stealing setting forth the Offence, between the 8th and 12th of July, &c. is sufficient.

A Mistake in not laying an Offence on the very same Day on which it is afterwards proved upon the Trial, is not material upon Evidence.

III. *The Parish, Precinct, Hamlet, or Place where a Felony is committed must be expressed in the Indictment.*

Middlesex; in the Margin, the Indictment supposing a Fact done *at the Parish of Saint Clement Danes in the County aforesaid*, is good, for it refers to the County in the Margin.

But if there be two Counties named, one in the Margin, and another in the Addition of any Party, or in the Recital of an Act of Parliament, the Fact laid at S. in the

I 2

County

County aforesaid, vitiates the Indictment, because two Counties are named before, and therefore 'tis uncertain to which it refers.

A Mistake of the Place in which an Offence is laid, will not be material upon Evidence on not guilty pleaded, if the Fact be proved at some other Place in the same County.

IV. As to the Name of the Person upon whom an Offence is committed.

An Indictment of Murder of a certain Person to the Jurors unknown is good, and so for stealing Goods, &c. of a certain Person unknown.

If *K* dies, and *L* opens the Grave where *K* is buried, and steals the Shroud, the Indictment cannot suppose the Goods to be of the dead Man, but of the Executors, Administrators, or Ordinary, as the Case happens.

If *K* deliver Goods to *L*, a common Carrier, to carry for him, and *L* is robb'd, the Indictment may suppose them to be the Goods of *K*, or the Goods of *L*, as the Prosecutor pleases; for *L* hath a Kind of special Property, because chargeable for them.

There's no Need of an Addition of the Person Robb'd or Murder'd, &c.

V. As to the Thing wherein, or of which, the Offence is committed, Certainty is requisite in an Indictment.

An

An Indictment against a Man for that he is a common Thief, or common Champartor, Conspirator, common Malefactor, or common Robber, &c. cannot be good, because every Indictment ought to contain the particular Matter wherein the Offence was committed.

But *common Barretor, and Disturber of the Peace of our Lord the King, and a Sower of Strife, &c.* is good, because Barretry is an Offence known in Law, and consists of diverse Particulars; and the Rest that is added thereunto are but Aggravations of the Offence, for Barretry itself is a Crime.

Also an Indictment against one for being a common Scold is good without setting forth the particulars.

An Indictment against a Man for that he feloniously took and carried away Goods and Chattles of another, without mentioning the Particulars, *viz. one Horse, one Ox, &c.* will not be good.

The Number of Things stolen must be expressed in the Indictment; for 'tis not sufficient to say, *feloniously did steal Sheep*, without expressing the Number.

The Value of any Thing stolen must be set down in the Indictment, to the End that it may appear, whether the Offence be Grand or Petty Larceny.

The same or rather greater, Certainty is required in an Indictment for Goods; for what will be a Defect of Certainty in a Count, will be much more defective in an Indictment.

VI. *The Fact, and Nature of the Fact, must be certainly set down in an Indictment.*

An Indictment against *A* for that he *feloniously did lead away a Horse*, without saying *take*, is not good.

An Indictment of Rape, for that the Defendant *feloniously and carnally did know*, without the Word *ravish*, will not be good, tho' it should conclude, against the Form of the Statute.

If *A* be indicted that he did *feloniously, &c. shoot off a Gun, &c. against B, giving to him a mortal Wound*, without saying *did strike*, the Indictment is not sufficient.

In Cases of Burglary, the Indictment must say, *break and enter*.

VII. *The Conclusion.* An Indictment of Felony must always alledge the Fact to be done *feloniously*. An Indictment of Burglary must lay the Offence to be done *feloniously and burglariously did break and enter*. High Treason must be laid to be done *traiterously*. Petit Treason, *feloniously and traiterously*; for tho' a Party be acquitted of Petit Treason, he may be convicted of Murder or Manslaughter.

If a Man be indicted that *he did steal a Horse*, for want of the Word *feloniously*, it is but a Trespass.

An Indictment of Murder or Manslaughter
hath

hath these Certainties and Requisites to be added to it, more than any other Indictments; for it must not be only *feloniously*, and ascertain the Time of the Act done, but must also, *1st*, declare how, and with what it was done, *viz. with a certain Sword, &c.*

Yet if the Party were kill'd with another Weapon, it maintains the Indictment; but if it were with another Kind of Death, as Poisoning or Strangling, it doth not maintain the Indictment upon Evidence.

If *A* be indicted for Poisoning *B*, the Sort of Poison must be alledged; but if *B* be poisoned with another Sort of Poison, yet it maintains the Indictment, for the Kind of Death is the same.

2. If a Man be indicted for the Murder of another, with a Sword, Pistol, &c. the Indictment must set forth, *in which Hand the Defendant held the Weapon*, tho' mistaking the Hand will not vitiate.

For Example; if an Indictment runs thus, *that with a certain Sword which he held in his Right did strike*, without saying in his *Right Hand*, for this Cause an Indictment has been quash'd.

3 The Weapon is a Deodand, forfeit to the King; therefore the Value should be set down in the Indictment.

4. The Indictment must shew in what Part of the Body the Wound was given.

5. The Length and Depth of the Wound should be set forth.

But tho' the Manner and Place of the Hurt, and its Nature be requisite, as to the Formality of the Indictment, and it is fit to be done as near the Truth, as may be, yet, if upon Evidence, it appear to be another Kind of Wound, in another Place, if the Party died of it, it is sufficient to maintain the Indictment.

6. It is usual to alledge, *the Party stricken to have been in the Peace of God, and our Lord the King*: But it does not seem absolutely necessary to be inserted.

7. It is necessary to alledge, in Fact, that the Party wounded, died of that Wound, and also the Time and Place, as well of the Death, as of the Wound given, that it may appear, that the Party died within the Year and Day of the Wound; as thus, *of which said mortal Wound, be the said A. B. then and there instantly died; or, of which said mortal Wound, be the said A. B. from such a Day (the Day of giving the Wound) until such a Day, did languish, and languishing did live, on which Day, be the said A. B. of the said mortal Wound, died.*

In an Indictment for Murder, the Stroke is alledg'd to be *mortal Bruise, or Wound, and given feloniously*; yet in Case of Murder, there is somewhat more to be said, or otherwise it will amount to no more than
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Manſlaughter, and the Offender will have his Clergy; for the ſpecial Words in an Indictment of Murder, are, 1ſt of *Malice afore-thought*; 2d, *did Murder*; and tho' the Words *did murder* be in an Indictment, yet for Want of the Words of *Malice afore-thought*, the Offender will have his Clergy.

An Indictment of Treason for counterfeit-
ing the King's Coin, ought to ſhew parti-
cularly what *Kind* of Coin, to wit, Shil-
lings, &c.

An Indictment of High-Treason, for con-
ſpiring the Death of a King, ought not
only to contain the compaſſing and conſpiring
to do the Act, but muſt alſo ſet down an
Overt-act in Purſuance thereof.

As in all Indictments of Felony, there
muſt be *feloniouſly*, and of Treason there
muſt be *traiterouſly*, ſo it muſt be ſaid to be
done *with Force and Arms*.

The Concluſion of an Indictment for Mur-
der, where the Stroke is ſuppoſed to be done
at one Day or Place, and the Death at ano-
ther Day or Place, ought not to be *and
ſo feloniously, wilfully, and of Malice afore-
thought, the aforeſaid A. B. the ſaid B. C.*
(the Day and Place, when and where the
Stroke was given) *did kill and Murder*; this
will not be good, becauſe the Stroke is the
Offence and Cauſe of the Death, yet it is

neither

neither Murder nor Manslaughter, 'till the Party die.

Regularly every Indictment ought to conclude, *against the Peace of our Lord the King, his Crown and Dignity*; therefore an Indictment without concluding *against the Peace, &c.* is insufficient.

If an Offence be supposed to be begun in the Time of one King, and continued in the Time of his Successor (as a Nuisance) it must conclude, *against the Peace of both Kings.*

If an Offence be newly enacted, or made an Offence of a higher Nature by Act of Parliament, the Indictment must conclude *against the Form of the Statute.*

If an Offence was High Treason, &c. at Common Law, and an Act of Parliament afterwards declares it so, as the Stat. 25 E 3 Stat. 5 c. 2. of Treasons the Stat. 3 H. 5 c. 7. of Clipping the Coin, &c. 'till repealed by 1 Mar. Stat. 1. the Indictment is good with or without concluding, *against the Form of the Statute.*

An Indictment for clipping, washing, &c. of Coin, enacted to be Treason by the Statutes 5 Eliz. c. 11. & 18 Eliz. c. 1. must not only express, as the Statute requires (*for wicked Lucre and Gain Sake*) but must conclude, *against the Form of the Statute.*

If an Offence was Felony at Common Law, but a special Act of Parliament ousts the Offender,

sender of the Benefit of Clergy (that the Common Law allowed him) when certain Circumstances are in the Fact, tho' the Body of such Indictment must express those Circumstances, according as they are describ'd in the Statute, yet the Indictment must not conclude, *against the Form of the Statute*.

Thus on the Stat. 21 Jac. 1. 27. concerning murdering of Bastard Children, the Indictment must shew, that it was a Bastard Child, to bring the Offender within the Statute, but concludes not *against the Form of the Statute*; but in such like Cases, it would not vitiate an Indictment to conclude, *against the Form of the Statute*; but would be only Surplusage.

If an Offence be at Common Law, and also prohibited by Statute, with a corporal or other Penalty, yet it seems the Party may be Indicted at Common Law, and then, tho' it conclude not *against the Form of the Statute*, it stands as an Indictment at Common Law, and can receive only the Penalty that the Common Law inflicts in that Case; so if Perjury be committed, that is, within the Stat. 5 Eliz. c. 9, but concludes not *against the Form of the Statute*, yet it is a good Indictment at Common Law, but not to bring him within the corporal Punishment of the Statute.

If a Statute only make an Offence, or alter an Offence from one Crime to another, as stealing Lead fixed to a Dwelling-house, &c.
from

from a Misdemeanor to Felony, by Stat. 4 G. 2. c. 32. the Indictment for such new made Offence, or new made Felony, must conclude *against the Form of the Statute*, otherwise it is insufficient.

And if an Offence be purely at Common Law, if the Indictment conclude *against the Form of the Statute*, it may be quash'd.

Some additional Observations.

1. No circumlocution will supply the terms of Art, appropriated by the Law for the Description of the Offence, as *Murdred*, in an Indictment of Murder; *Took*, in an Indictment of Larceny; *Mayhemed*, in an Indictment of Main; *Traiterously*, in an Indictment of Treason; and *against the Duty of his Allegiance*, in an Indictment of Treason against the Kings Person.

2. An Indictment charging a Man disjunctively is void, as that A. *Murdered B. or caused to be Murdered*; or that A. *Forged such a Deed, or caused to be Forged*.

3. An Indictment must be positive and not by way of recital, or with a *That whereas*, &c.

4. When one material Part of an Indictment is Repugnant to another, the whole is void; as in an Indictment, against A. for Forging a Writing, whereby B. is bound to C. which

C. which is Impossible if the Writing be Forged ; or in an Indictment for Disseising *A.* of Lands, when it appears by the Indictment, that *A.* had no Freehold, whereof he could be Disseised.

From these Observations we refer the Practicer to the following Precedents, which we hope he'll find drawn up so suitable to every Purpose they touch upon, as to give him Ease and Satisfaction in his Practice of pursuing them.

PRECEDENTS

P R E C E D E N T S
O F
I N D I C T M E N T S
F O R

Trespaffes and Misdemeanors.

An Indictment for a Misdemeanor, in receiving Stolen goods, as Accessary the principal Felon being unknown.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Doe*, late of the Parish of *Saint Leonard, Shoreditch*, in the County of *Middlesex*, Labourer, and *Mary* his Wife, being Persons of evil Name and Fame, and of dishonest Conversation, on the fifth Day of *June*, in the tenth Year of the Reign of our Sovereign Lord, *George the Second*, King of *Great Britain*, &c. with Force of Arms, at the Parish aforesaid, in the County aforesaid, one silver Tankard, of the Value of six Pounds of the Goods and Chattles of one *Samuel Mason*, by a certain ill-disposed Person (to the Jurors aforesaid yet unknown) then lately before feloniously stolen of the same ill-disposed Person, unlawfully, unjustly, and for the sake of wicked Gain, did receive, and have (they the said *John Doe*, and *Mary* his Wife, then and there well knowing, and each of

ASSAULT. 127

of them well knowing the said Goods and Chattels to have been feloniously stolen) to the great Damage of the said *Samuel Mason*, against the Form of the Statute in that Case made and provided; and against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 1. Ann. Stat. 2. c. 9. *Whosoever shall buy or receive stolen Goods, knowing them to be stolen, may be prosecuted for a Misdemeanor, and punished by Fine and Imprisonment, tho' the principal Felon be not Convicted,*

This Statute exempts them from being punished as Accessories, if the Principal shall afterwards be Convicted.

For a common Assault.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Yeoman, on the first Day of *June*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon one *J. H.* in the Peace of God, and our said Lord the King, then and there being, did make an Assault; and him the said *J. H.* then and there did beat, wound, and ill-treat, so that his Life was greatly despaired of, and other Wrongs to the said *J. H.* then and there did, to the great Damage of the said *J. H.* and against the Peace of our said Lord the King, his Crown and Dignity.

For

128 Precedents of Indictments, &c.

For Assaulting a Constable in the Execution of his Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, Yeoman, on the first Day of *May*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon one *John Wilson* (then being one of the Constables of the said Parish of *St. Dunstan* in the *West*, in the said County of *Middlesex*) in the Peace of God, and our said Lord the King, and in the due Execution of his said Office, then and there being, did make an Assault, and him, the said *John Wilson*, then and there did beat, wound, and ill-treat, so that of his Life it was greatly despair'd, and other Wrongs to the said *John Wilson*, then and there did to the great Damage of him, the said *John Wilson*, and against the Peace of our said Lord the King, his Crown and Dignity.

In this, and all Cases of the like Nature, 'tis necessary to add this Count. That if it should not be proved that the Prosecutor was in the due Execution of his Office, the Defendant may be convicted for a Common Assault, for the Jury may find only as to the latter Count, if the former Count is not fully proved; but when 'tis fully proved, the Jury finds the Defendant guilty in General.

And the Jurors aforesaid upon their Oath aforesaid, do further present, That the said *A. B.* on the said first Day of *May*, in the Year aforesaid, with Force and Arms, at the Parish of *St. Dunstan* in the *West* aforesaid, in the County aforesaid, in and upon the said *John Wilson*, in the Peace of God and our said Lord the King, then and there being, did

did make an Assault, and him the said *John Wilson*, then and there did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said *John Wilson*, then and there did to the great Damage of him the said *John Wilson*, and against the Peace of our said Lord the King, his Crown and Dignity.

For an Assault and false Imprisonment.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *L.* in the County of *M.* Yeoman, on the — Day of — in the — Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *M. D.* in the Peace of God, and our said Lord the King, then and there being, did make an Assault; and him the said *M. D.* then and there did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and him the said *M. D.* then and there with Force and Arms falsely, unlawfully, and injuriously, and against the Will of the said *M. D.* and against the Laws of this Realm, without any legal Warrant, Authority, or justifiable Cause, did imprison and detain for the Space of — Hours, and the said *A. B.* other Wrongs to the said *M. D.* then and there did, to the great Damage of the said *M. D.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors, &c. Go on with another Count for a common Assault, as before.

130 Precedents of Indictments, &c.

*For the like, and obtaining a Note
for discharging.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That (*As in the former 'till you come to the Words Imprison*) and detain for the Space of — Hours, and until he the said *M. D.* for his Delivery from the said Imprisonment, had signed and given to the said *A. B.* a Note under the Hand of the said *M. D.* whereby he the said *M. D.* promised to pay to the said *A. B.* the Sum of Three Pounds; and the said *A. B.* other Wrongs, &c. Conclude, as in the former, with another Count for a common Assault.

*For an Assault with an Intent to
Ravish.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of — in the County of — on the — Day of — in the — Year, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *A. W.* Spinster, in the Peace of God, and our said Lord the King, then and there being, did make an Assault, and her the said *A. W.* then and there did beat, wound, and ill-treat, so that of her Life it was greatly despaired, with an Intent her the said *Ann*, against her Will, then and there feloniously to Ravish and Carnally know, and other Wrongs to the said *Ann*, then and there did to the great Damage of the said *Ann*, and against the Peace of our said

These Words (a gainst her Will) left out if under ten Years of Age, because then she cannot consent.

(Unlawfully and feloniously, carnally to know and abuse) if under the Age of Ten.

Lord

Lord the King, his Crown
and Dignity. *Another Count for*
a common Assault, as before.

Necessary if the In-
tent is not plain.

*Against two Persons for assaulting
a Woman, with an Intent that one
of them should Ravish her.*

Middlesex. **T**HE Jurors for our Lord the
King upon their Oath present,
That *J. H.* late of *Ec.* And *A. R.* late of
Ec. (Day and Year) with Force and Arms
at the Parish aforesaid, in the County aforesaid,
in and upon one *Elizabeth*, the Wife
of *Henry Sommer*, in the Peace of God,
and our said Lord the King, then and
there being, did make an Assault, and her
the said *Elizabeth*, then and there did bear,
wound, and ill-treat, so that her Life was
greatly despaired of, with Intent that he the
said *J. H.* should then and there feloniously,
and against the Will of the said *Elizabeth*, ra-
vish and carnally know her the said *Elizabeth*,
and they the said *J. H.* and *A. R.* other
Wrongs to the said *Elizabeth*, then and there
did, to the great Damage of the said *Elizabeth*,
and against the Peace of our said Lord the
King, his Crown and Dignity. And the Jurors
aforesaid, upon their Oath aforesaid, do further
present, That the said *J. H.* and *A. R.* on the
said ——— Day of ——— in the Year aforesaid,
with Force and Arms, *Ec.* for a common As-
sault.

For

132 **Precedents of Indictments, &c.**

For assaulting a Woman with quick Child, so that the Child was brought forth Dead.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. H.* late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Yeoman, on the fourth Day of *April*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish afore said, in the County afore said, in and upon one *M. E.* the Wife of *W. E.* in the Peace of God, and our said Lord the King, and also then and there, being big with a quick Child, did make an Assault, and her the said *M.* then and there did beat, wound, and ill-treat, so that her Life was greatly despaired of, by Reason whereof she the said *M.* afterward, to wit, on the twenty-ninth Day of the same Month of *April*, in the Year afore said, at the Parish of *St. Sepulchre* afore said, in the County afore said, did bring forth the said Child dead; and the said *J. H.* other Wrongs to the said *M.* did to the great Damage of the said *W. E.* and *M.* his Wife, and against the Peace, &c. and the Jurors, &c. (*Another Count for a common Assault, as before.*)

For assaulting one of the Collectors of Islington Turnpike, in the Execution of his Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That

That G. S. late of the Parish of L. in the County of M, Yeoman, on the eleventh Day of December, in the eighth Year of the Reign of our Sovereign Lord, George the Second, King of Great Britain, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one J. D. (then and there, being one of the Collectors and Receivers of the Moneys payable, by Virtue of a certain Act of Parliament, made in the third Year of the Reign of the late King George the First, intituled, † *An Act for repairing the Highways, from several Places therein mentioned, leading towards Highgate Gatehouse, and Hamstead, in the County of Middlesex, and for electing Trustees for keeping up a sufficient Number for the repairing the Highways upon the Roads from Highgate Gatehouse to Barnet Lockhouse; and also of the Highways between Kilburn Bridge and Sparrows-Hern in the County of Hertford*) and in the Peace of God and our said now Lord the King, and in the Execution of his said Office, then and there being, did make an Assault, and him, the said J. D. then and there did beat, wound and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said J. D. then and there did, to the great Damage of the said J. D. and against the Peace of our said now Lord the King, his Crown and Dignity. *Here lay another Count for a common Assault.* For

By Stat. 8.
Geo. 2. c. 20.
§ 11. 5 l.
Penalty for assaulting or threatening Collectors of Tolls, or forcibly passing thro' Turn-pikes, &c recoverable before two Justices of Peace, in a summary Way. *Vide. Act.*

† Great Care must be taken of the true recital of the Title of the Statute.

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For an Assault on a Boy, with an Intent to commit Sodomy.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. B.* late of the Parish of *St. George*, in the County of *Middlesex*, Yeoman, not having the Fear of good before his Eyes, but being moved and seduced by the Instigation of the Devil, on the nineteenth Day of *July*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *J. H.* an Infant, of the Age of ten Years, in the Peace of God, and our said Lord the King, then and there being, did make an Assault, and him the said *J. H.* then and there did beat, wound and ill-treat, so that his Life was greatly despaired of, with an Intent that most horrid, detestable and sodomitical Crime (among Christians not to be named) called *Buggery*, with the said *J. H.* against the Order of Nature, then and there feloniously, wickedly and devilishly to commit and do, to the great Displeasure of Almighty God, to the great Damage of the said *J. H.* and against the Peace of our said Lord the King, his Crown and Dignity: And the Jurors, &c. *Conclude with a Count for a common Assault.*

For an Assault, with a drawn Sword, with an Intent to murder.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. B.* late of, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, with

with a certain drawn Sword, which he the said *A. B.* in his Right-hand then and there had and held, in and upon one *S. W.* in the Peace of God and our said Lord the King, then and there being, did make an Assault, with an Intent him the said *S.* then and there, feloniously, wilfully, and of his Malice aforethought, to kill and murder, and other Wrongs to the said *S.* then and there did, to the great Damage of the said *S.* and against the Peace of our said Lord the King, his Crown and Dignity. *Lay another Count for a common Assault.*

*For assaulting the driver of a Chaise,
and with the Off-Wheel of a Cart,
overturning the Chaise.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. P.* late of the Parish of *St James, Clerkenwell*, in the County of *Middlesex*, Yeoman. on the seventh Day of *June*, in the sixth Year of the Reign of our Sovereign Lord, *George the Second*, King of *Great Britain*, &c with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *R. C.* in the Peace of God and our said Lord the King, and in a certain Chaise drawn by one Horse, in the King's Highway, then and there being, did make an Assault, and that the said *J. P.* then and there, driving one Horse drawing a Cart, did then and there, in the Highway aforesaid, unlawfully and maliciously drive the said Horse so as aforesaid drawing the said Cart, to and against the said Chaise, and by such driving did then and there, in the Highway aforesaid, unlawfully and maliciously force the said Cart against the said Chaise; and he the said *J. P.* with the

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Off-wheel of the said Cart, did then and there, in the Highway aforesaid, unlawfully and maliciously overturn the said Chaise, in which the said R. C. then and there was, as aforesaid; by Reason of which Overturning of the Chaise aforesaid, he the said R. C. then and there was grievously hurt and bruised, and the said J. P. other Wrongs to the said R. C. then and there did, to the great Damage of the said R. C. and against the Peace, &c.

*For an Assault and driving a Cart,
against a Chariot, and breaking the
Back of one of the Horses, drawing
the Chariot.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That E. P. late of the Parish of St. Giles, Cripplegate, in the County of *Middlesex*, Yeomen, on the thirteenth Day of *June*, in the Tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon one E. L. in the Peace of God, and our said Lord the King, in a certain Chariot, drawn by two Horses in the King's Highway, then and there being, did make an Assault, and the said E. P. then and there driving two Horses drawing a Cart, did then and there, in the King's Highway aforesaid unlawfully, violently, and maliciously drive the said Horses so as aforesaid, drawing the said Cart, to and against the said Chariot, and by such violent driving, did then and there in the Highway aforesaid, unlawfully, and maliciously
force

force the said Cart against the said Chariot, and he the said *E. P.* with the near Wheel of the said Cart, did then and there in the Highway aforesaid, unlawfully, and maliciously break the Back of one of the said Horses, drawing the said Chariot as aforesaid, and by the violent Force that the said Cart then and there come to and against the said Chariot as aforesaid, he the said *E. P.* did then and there endeavour to overturn the said Chariot, in which the said *E. L.* then and there was as aforesaid, by reason whereof the said *E. L.* then and there was grievously hurt and bruised, and the said *E. P.* other Wrongs to the said *E. L.* then and there did, to the great Damage of the said *E. L.* and against the Peace of our said Lord the King, his Crown and Dignity.

For an Assault and Beating out an Eye.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Joan Bevis*, late of the Parish of *St. Andrew Holbourn*, in the County of *Middlesex*, Widow, being a Person of a wicked and diabolical Disposition, and maliciously designing and intending one *Mary*, the Wife of *James Williams*, to beat, wound, and ill-treat, on the second Day of *January*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *Mary Williams*, in the Peace of God and our said Lord the King, then and there being, violently

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violently did make an Assault, and her the said *Mary Williams* then and there did beat, wound and ill-treat, so that her Life was greatly despaired of; and that she the said *Joan Bevis*, with her right Hand, the said *Mary Williams*, in and upon the left Eye of her the said *Mary Williams*, then and there unlawfully, violently and maliciously did strike, by Reason whereof she the said *Mary Williams* then and there the Use, Sight and Benefit of her said left Eye intirely lost, and was deprived of and under the Pain and Anguish of the Blow, which she the said *Mary Williams* then and there received from the said *Joan Bevis*, for a long Time, to wit, from the said second Day of *January*, in the Year aforesaid, unto the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, hath continued and laboured, and doth yet continue and labour; and that the said *Joan Bevis* other Wrongs to the said *Mary Williams*, then and there, violently and maliciously did, to the great Damage and Impoverishment of the said *James Williams* and *Mary* his Wife, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.
(Another Count for a common Assault, as before.)

For an Assault and rescuing Goods Distrained for Rent.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the twenty fifth Day of *December*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. and continually afterward, until the twenty-fifth Day

Day of *March*, in the Year aforesaid, *Matthew Elkins* did hold of one *John White*, a certain Room in the Dwelling House of the said *John White*, situate in the Parish of *St. John, Wapping*, in the County of *Middlesex*, by Demise from the said *John White*, to the said *Matthew*, at and under the Rent of fifteen Shillings for the said Time reserved, and by the Demise made payable to the said *John White*, on the said twenty-fifth Day of *March*, in the Year aforesaid, and that on the said twenty-fifth Day of *March*, in the Year aforesaid, and continually afterward, until the twenty-fourth Day of *June*, in the Eleventh Year of the Reign of our said now Lord the King, the said *Matthew Elkins* did hold of the said *John White*, the same Room, by Demise from the said *John*, to the said *Matthew*, at and under the Rent of fifteen Shillings for the last mention'd Time, also reserved, and by the said Demise made payable to the said *John White*, on the said twenty-fourth Day of *June*, in the Eleventh Year of the Reign aforesaid; and that on the said twenty-fourth Day of *June*, in the said Eleventh Year of the Reign aforesaid, both the said Sums of fifteen Shillings, amounting together to the Sum of thirty Shillings were remaining due, and in Arrear, and unpaid for the Rent aforesaid, reserved in Manner aforesaid. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Matthew Elkins*, on the twenty-third Day of *June*, in the Eleventh Year of the Reign aforesaid, did fraudulently and clandestinely convey and carry off, and from the said demised Premises, his Goods and Chattles, that is to say, one Pewter Dish of the Value of two Shillings, &c. with Intent to prevent the said *John White*, the Lessor aforesaid, from distraining the same for the

Here mention
the Goods.

said

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faid Arrears of Rent. so reserved and due as is aforefaid ; whereupon the faid *John White* afterward, and within the Space of five Days next enfuing the faid conveying and carrying off the fame Goods, to wit, on the twenty-eighth Day of *June*, in the Eleventh Year aforefaid, at the Parifh of *St. Leonard, Shoreditch*, in the County aforefaid, did find the faid Goods and Chattels, and the fame Goods and Chattels fo found, did then and there,

in due form of Law feize, that is to
Mention the Goods again. fay, the faid Pewter Difh, &c. of the Goods and Chattels of the faid *Matthew Elkins*, as a Diffrefs for the faid Rent fo in Arrear as aforefaid, and the faid Goods and Chattels in his Cufody and Poffeffion, then and there had ; and that the faid *Matthew Elkins*, late of the Parifh of *St. Leonard, Shoreditch*, aforefaid, in the County aforefaid, Barber-Surgeon, and *Sarah* his Wife, afterwards, to wit, on the faid twenty-eighth Day of *June*, in the Eleventh Year of the Reign aforefaid, at the Parifh laft above-faïd, in the County aforefaid, in and upon the faid *John White*, in the Peace of God, and our faid Lord the King, then and there being, did make an Affault, and the faid Goods and Chattels (fo as aforefaid, for the Cause aforefaid taken and feized) out of the Poffeffion, and againft the Will of the faid *John White*, unlawfully, and injuriously did take and refcue (the faid Sum of thirty Shillings, fo due for Rent as aforefaid, or any Part thereof not being then paid and fatisfied to the faid *John White*) and other Wrongs to the faid *John White*, then and there did, to the great Damage of the faid *John White*, and againft the Peace of our faid Lord the King, his Crown and Dignity.

By the Stat. 8. Ann. c. 14. 'Tis Enacted,
 " That after the firft Day of May, 1710. in
 Case

“ Case any Lessee for Life or Lives, Term of
 “ Years, at Will or otherwise, of any Messuages,
 “ Lands or Tenements, upon the Demise whereof any
 “ Rents shall be reserved or made payable, shall frau-
 “ dulently and clandestinely convey or carry off from
 “ such demised Premises his Goods or Chattels, with
 “ Intent to prevent the Landlord or Lessor from
 “ distraining the same for Arrears of such Rent re-
 “ served as aforesaid; it shall and may be lawful
 “ for such Lessor or Landlord, or any Person by
 “ him for that Purpose lawfully impowered, within
 “ the Space of * five Days next ensuing such convey-
 “ ing away or carrying off such Goods and Chattels as
 “ aforesaid, to take and seize such Goods and Chattels,
 “ wherever the same shall be found, as a Distress for
 “ the said Arrears of such Rent, and the same to
 “ sell, or otherwise dispose of in such Manner, as if
 “ the said Goods and Chattels had actually been di-
 “ strained by such Lessor or Landlord, in and upon
 “ such demised Premises, for such Arrears of Rent,
 “ any Law, Custom, &c. to the contrary notwith-
 “ standing.”

*Assault upon a Game-keeper in the
 Execution of his Duty.*

Kent. **T**HE Jurors for our Lord the King
 upon their Oath present, That *Adam
 Benson*, late of the Parish of *Dartford*, in the
 County of *Kent*, Gentleman, and *Charles De ne*,
 late of the same, Gentleman, on the fifth Day of
May, in the tenth Year of the Reign of our Sove-
 reign Lord *George the Second*, now King of *Great
 Britain*, &c, with Force and Arms, at the Parish
 aforesaid,

* The Time is enlarged to thirty Days by Stat. 11. Geo. 2.
 c. 19.

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aforesaid, in the County aforesaid, in the Manor of ——— into a certain Field and Close of, and belonging to *William Smith*, there lying and being, unlawfully and injuriously did enter, and in and upon one *Edward Finch* (Game-keeper of the said

Manor, * duly deputed, authorized and appointed by *George Haynes*, Esquire, then and yet Lord of the Manor aforesaid) in the Peace of God, and our said Lord the King, and in the due Execution of his Duty, as a Game-keeper of the said Manor, then and there being, did make an Assault, and him the said *Edward*

Finch, then and there, did beat, wound and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said *Edward Finch* then and there did, to the great Damage of the said *Edward Finch*, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Adam Benson* and *Charles Deene*, on the said fifth Day of *May*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *Edward Finch*, in the Peace of God and our said Lord the King, then and there being, did make an Assault, and him the said *Edward Finch* did, then and there, beat, wound and ill-treat, so that of his Life it was greatly despaired; and other Wrongs to the said *Edward Finch* then and there did, to the great Damage of the said *Edward Finch*, and against the Peace of our said Lord the King, his Crown and Dignity.

Stat. relating to Game-keepers, 22 and 23 Car. 2.
c. 25. 5 Ann. Sess. 2. c. 14. Deputation to be
entered

entered with the Clerk of the Peace, who is to give a Certificate thereof for a Shilling, 9 Annæ, c. 11. Who to be appointed Game-keepers. Vide Stat. 3 Geo. 1. c. 11.

For keeping an Ale-house without a Licence.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Fosset*, late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Victualler, on the seventeenth Day of *January*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. and diverse other Days and Times, as well before as afterwards, at the Parish aforesaid, in the County aforesaid, without any lawful Authority, Licence. Admission or Allowance of two Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, did take upon himself to keep, and then and there did keep, a common Alehouse, and in the same House, then and there, commonly and publickly, did sell and utter, and did cause to be sold and uttered, Ale and Beer, to diverse liege Subjects of our said Lord the King, in Contempt of our said Lord the King, and his Laws, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Licences to be granted in Session, or by two Justices, (*Quorum unus*) Stat. 5. Ed. 6. c. 25.

Note. These Indictments are often preferred at Assizes, and not quashed.

Note. There are some Books which tell us, that an Indictment will not lye for keeping an Ale-house without

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without Licence, because the Statutes direct, how the Offenders are to be punish'd, viz. committing them, &c. 4 Mod, 144 Trin. Term. 4 W. M. K. B. The King against Marriot. Shower's Reports, p. 393. Hill, 8 W. 3. But the above Precedent is given, in Case this Doctrine should be over-ruled.

Statutes relating to Ale-houses are, 5 E. 6. c. 25. 1 Jac. 1. c. 9. 4. Jac. 1. c. 4. c. 5. 7 Jac. 1. c. 10. 21 Jac. 1. c. 7. 1 Car. 1. c. 4. 3 Car. 1. c. 4. 12 Geo. 1. c. 12. 2 Geo. 2. c. 28.

BARRATRY.

A Indictment for being a common Barrator.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex*, Labourer, on the fifteenth Day of *October*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. and diverse other Days and Times, as well before as afterwards, was, and yet is a common Barrator; and that he the said *A. B.* on the said fifteenth Day of *October*, and diverse other Days and Times, at the Parish aforesaid, in the County aforesaid, diverse Quarrels, Strifes, Suits and Controversies, among the honest and quiet liege Subjects of our said Lord the King, then and there did move, procure, stir up and excite, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

A

BARRATRY. 145

A Barrator, or Barretor, signifies a common Wrangler, who setteth Men at Odds, and is himself never quiet, but at brawl with one or other. Cow. Interp.

Every Justice of the Peace (at his Discretion) may bind to the Peace, or good Behaviour, such as are common Barrators.

A common Barrator is he, who either is a common Mover, or Stirrer-up (or Maintainer) of Suits in Law in any Court, or else of Quarrels. 1 Inst. 368.

If in any Court of Record, County-Court, Hundred, or other inferior Court, any Persons, by Fraud or Malice, under Colour of Law, shall themselves maintain, or stir up others, unto Multiplicity of unjust and feigned Suits, or Informations (upon any Penal Laws) or shall maliciously purchase a special Supplicavit, to force another to yield him Composition, all such are Barrators.

Disturbers of the Peace, as commonly quarrel or fight in their own Causes, or common Movers of Quarrels and Affrays between others, are Barrators.

Common Takers or Detainers (by Force or Subtilty) of Possession of Houses, or Lands, or Goods, which have been in Question or Controversy, are Barrators.

Inventors and Sowers of false Reports, whereby Discord ariseth, or may arise between Neighbours, are Barrators. 8 Co. 36.

But all such Persons must be common Barrators, not in one or two, but many Instances. Ibid.

L

CHALLENGE.

C H A L L E N G E.

For assaulting a Person, provoking him to fight, and sending him a Challenge.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *R. B.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Gent. being a Fighter and Disturber of the Peace of our said Lord the King, on the twentieth Day of *April*, in the third Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon one *W. C.* in the Peace of God, and our said Lord the King, then and there being did make an Assault, and with Threats and opprobrious Language, then and there wickedly and maliciously did stir up, provoke, and excite him the said *W. C.* to fight a Battle against him the said *R. B.* And further, that the said *R. B.* afterwards to wit, on the same Day and Year abovemention'd, at the Parish aforesaid, in the County aforesaid, came with Force and Arms, and with Threats and opprobrious Language, then and there wickedly and maliciously did stir up, provoke, and excite him the said *W. C.* then and there being in the Peace of God and our said Lord the King, to fight against him the said *R. B.* a Duel with Swords and Pistoles, and the said *R. B.* other Wrongs to the said *W. C.* then and there did to the great Damage and Terror of him the said *W. C.* in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For

CHALLENGE. 147

For sending a Challenge in a Letter.

City, Borough and Town of Westminster, in the County of Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. N.* late of the Parish of *St. Paul, Covent-Garden*, within the Liberty of the Dean and Chapter of the Collegiate Church of *St. Peter, Westminster*, the City, Borough and Town of *Westminster*, in the County of *Middlesex*, Yeoman, being a Person of a wicked and malicious Disposition, and a common Dueller, Fighter, and Disturber of the Peace of our said Lord the King, and not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the sixteenth Day of *May*, in the ninth Year of the Reign of our Sovereign Lord *George the Second, King of Great Britain, &c.* with Force and Arms, at the Parish aforesaid, within the Liberty aforesaid, in the County aforesaid, wickedly and maliciously intending and designing as much as in him lay, not only to disquiet and terrify one *T. E.* but also the said *T. E.* maliciously, violently, and wickedly to kill and murder; and he the said *J. N.* his said malicious and wicked Intentions and Designs, the sooner to compleat, perfect and put in Practice afterwards, to wit, on the said sixteenth Day of *May*, in the Year aforesaid, with Force and Arms at the Parish aforesaid, within the Liberty aforesaid, in the County aforesaid, did unlawfully and wickedly provoke, and excite the said *T. E.* to fight and duel against him the said *J. N.* with a Sword; and that he the said *J. N.* a certain Challenge in the Name of the said *J. N.* in the Form of a Letter to the said *T. E.* directed, did then and there maliciously, wickedly, and diabolically write, and

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cause to be written, which said Challenge so as
aforesaid, written and directed; he the said J. N.
afterwards, to wit, on the said sixteenth Day of
May, in the Year aforesaid, at the Parish afore-
said, within the Liberty aforesaid, in the County
aforesaid, maliciously, and wickedly to the said
T. E. did send and deliver, and cause to be sent
and delivered, to the great Damage and Terror
of him the said T. E. to the evil Example of all
others in the like Case offending, and against the
Peace of our said Lord the King, his Crown and
Dignity.

Poph. 158.
3 Inst. 158.
1 Sid. 186.
1 Keb. 694.
Hob. 120.
215. 2 Rol.
Ab. 78.

'Tis a very high Offence to chal-
lenge another, either by Word or Let-
ter, to fight a Duel, or to be the Mes-
senger of such a Challenge, or even
barely to endeavour to provoke an-
other to send a Challenge, or to fight;
as by dispersing Letters to that Pur-
pose, full of Reflections, and insinuating a Desire to
fight, &c.

An Affray may receive an Aggravation from the
dangerous Tendency thereof, as where

Poph. 153
3 Inst. 158.

Persons coolly and deliberately engage
in a Duel, which cannot but be at-
tended with the apparent Danger of Murder, and is
not only an open Defiance of the Laws, but carries
with it a direct Contempt of the Jus-

1 Sid. 186.
1 Keb. 194.

tice of the Nation, as putting Men un-
der a Necessity of righting themselves;
upon which Considerations, Persons convicted of
barely sending a Challenge, have been adjudged to pay
a Fine of One hundred Pounds, and to

Moore 563:
Pl. 763:

be imprisoned for one Month, without
Bail, and also to make a public Ac-
knowledgment of their Offence, and to be bound to
their good Behaviour.

CHURCH-YARD. 149

For Striking a Person with a Weapon in a Church-Yard.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Henry Bambridge*, late of the Parish of *St. Pancras*, in the County of *Middlesex*, Gent. on the fourth Day of *April*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great-Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, to wit, in a certain Church-Yard, belonging to the same Parish, and there situate, maliciously did strike one *Mary Palmer*, Spinster with a certain Weapon made of Iron and Steel, call'd a Hanger, which he the said *Henry Bambridge*, then and there had and held in his right Hand against the Form of the Statute, in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

With an Intent to strike.

If any Weapon is drawn with an Intent to strike another, then say, With his right Hand did draw a certain Weapon call'd a Hanger, to the Intent to strike one Mary Palmer, with the same Weapon, against the Form of the Stat. &c. and against, &c. as above. But it seems to be the better Way, That if a Person draws a Weapon to the Intent to strike, and actually strikes, to lay the Indictment two Ways. Thus, With his right Hand did draw a certain Weapon, &c. against the Form of the Statute, &c. and against the Peace, &c. And the Jurors aforesaid upon the Oath

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aforesaid, do further present, That the said *Henry Bambridge*, on the said fourth Day of *April*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in a certain Church Yard, belonging to the same Parish, and there situate maliciously did strike, &c. as above.

By the Stat. 5 & 6th Ed. 6. c. 4. 'Tis Enacted, That if any Person shall maliciously strike another with any Weapon, in any Church or Church-Yard, or shall draw any Weapon in any Church or Church-Yard to the Intent to strike another with the same Weapon, that then every Person so offending, and thereof being Convicted by Verdict of twelve Men, or by his own Confession, or by two lawful Witnesses, before the Justices of Assize, Justices of Oyer and Terminer, or Justices of Peace in their Sessions, by Force of this Act, shall be adjudged, by the same Justices, before whom such Person shall be convicted, to have one of his Ears cut off: And if the Person or Persons so offending have none Ears, whereby he or they should receive such Punishment as is before declared, that then he or they to be marked and burned in the Cheek with an hot Iron, having the Letter F, whereby he or they may be known to be Fray-makers and Fighters, and besides, that every such Person to be and stand ipso facto excommunicated, and be excluded, from the Fellowship and Company of Christ's Congregation.

He who strikes another in a Church
Cro. Ja. 367. &c. can no way excuse himself, by shewing that the other assaulted him.

CHURCH-YARD. 151

*For digging up, and carrying away
a Dead Body out of a Church-Yard.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. C.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Surgeon, on the sixth Day of *December*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. about the Hour of Two in the Night of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Church-Yard belonging to the Parish Church of the same Parish, unlawfully did enter, and a Dead Body of a certain Woman, to the Jurors aforesaid yet unknown, then lately before laid in a Coffin, and buried in the same Church-Yard, did then and there unlawfully dig up, take out of the said Coffin, and carry away, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

COMPOUNDING FELONY.

For Compounding Felony.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the sixteenth Day of *December*, in the ninth Year of the Reign of our Sovereign Lord *George*, the Second, now King of *Great Britain*, &c. one *William Dorrick*, at the Parish of *St. Andrew, Holbourn*, in the County of *M.* in his proper Person, came before *John Poul-*

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son, Esq; then and yet being one of the Justices of our said Lord the King, assigned to keep the Peace in the said County of *Middlesex*, and also to hear and determine diverse Felonies, Trespasses and other Misdeeds committed in the same County, and then and there, upon his Oath aforesaid, did charge and accuse one *Mary* the Wife of *Peter Johnson*, with feloniously stealing, taking, and carrying away one silver Spoon and two Silk Handkerchiefs, of the Goods and Chattles of the said *William Dorrick*, upon which the said *John Poulson*, then and there issued out his Warrant, under his Hand and Seal, made in due Form of Law, for the apprehending and taking the said *Mary*, to answer, and be examined of, and concerning the Felony aforesaid, on her as aforesaid charged: And that afterwards, on the said sixteenth Day of *December*, in the Year aforesaid, the said *Mary*, at the Parish aforesaid, in the County aforesaid, for the said Felony, and by Virtue of the said Warrant, was taken and arrested, and then and there was brought before the said *John Poulson*, the Justice aforesaid, and then and there, before the same Justice, of and concerning the same Felony was examined: Upon which the said *John Poulson*, the Justice aforesaid, then and there did make a certain Warrant, under his Hand and Seal, in due Form of Law, directed to the Keeper of *Newgate*, or his Deputy, thereby commanding the aforesaid Keeper, or his Deputy, to receive into Custody the Body of the said *Mary Johnson*, so charged with Felony as aforesaid, and her in Custody safely to keep, until she should be discharged by due Course of Law. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *William Dorrick*, late of the Parish of *St. George*
the

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the *Martyr*, in the County aforesaid, Tallow-chandler, and *James Dorrick*, late of the same, Broker, well knowing the Premisses, and each of them well knowing the same, but contriving and intending, unlawfully and unjustly, to prevent the due Course of Law in this Behalf, and to cause and procure the said *Mary Johnson*, for the Felony aforesaid, to escape with Impunity, afterwards, to wit, on the same Day and Year, at the Parish of *St. Andrew, Holbourn*, aforesaid, in the County aforesaid, unlawfully, and for wicked Gain Sake, did take upon themselves to compound the said Felony, on the Behalf of the said *Mary Johnson*, and then and there did exact, receive and have, of the said *Peter Johnson*, the Husband of the said *Mary*, twenty-six Shillings in Monies, numbered for, and as a Reward for compounding the said Felony, and disisting from all further Prosecution against the said *Mary Johnson*, for the Felony aforesaid, to the great Hindrance of Justice, to the evil Example of all others in the like Case offending, in Contempt of our said Lord the King and his Laws, and against the Peace of our said Lord the King, his Crown and Dignity.

CONSPIRACY.

*For conspiring That one Man should
rob the other, with an Intent to
charge the Hundred.*

Warwickshire. **T**HE Jurors for our Lord the King upon their Oath present,
That *James Bromley*, late of *Ec.* and *Robert Bromley*,

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Bromley, late of *Essex*. devising and intending unjustly to oppress and aggrieve divers Subjects of our said Lord the King, within this Realm, and wrongfully to charge them with the Payment of great Sums of Money, to the Amount of two Hundred and thirty Pounds, and upwards, on the thirty-first Day of *July*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish of — in the County of *Warwick*, did conspire, combine and agree together, that he the said *James Bromley* should, in or near the King's Highway there, take from the Person of the said *Robert Bromley* the Sum of two Hundred and thirty Pounds and a silver Watch, and that the said *Robert Bromley* should make Oath, before some Justice of the Peace, of the said pretended Robbery; and the said *Robert Bromley*, in Pursuance of the said Conspiracy, Combination and Agreement, did afterwards, to wit, on the same Day and Year above-mentioned, at *W.* in the County of *Warwick* aforesaid, make, and give Information in Writing, upon Oath, before *J. D. Esq;* then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the said County of *Warwick*, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed within the same County; That about ten of the Clock in the

Forenoon of that Day, he was assaulted, in the Highway leading from C.

The Information.

in the County of *Warwick*, to *L.* in the County of *Stafford*, near a Place called the *Green-Man*, in the Parish of *W.* in the Hundred of *H.* in the said County of *Warwick*, by a tall, lusty Man, wearing a dark brown Wig and a brown Coat, mounted on a black Horse or Mare, about fifteen Hands high, and was by him robbed,

in

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in the Highway aforeſaid, of the Sum of two Hundred and thirty Pounds, and a ſilver Watch, and that he did not, at the Time of the ſaid Robbery, nor then, know the Perſon who committed the ſaid Fact, with the fraudulent and wicked Intent and Purpoſe to charge the Inhabitants of the ſaid Hundred with the Payment of the ſaid Sum of two Hundred and thirty Pounds, to the evil Example of all others in the like Caſe offending, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity. And the Jurors afore ſaid, upon their Oath, aforeſaid, do further preſent, That the ſaid *James Bromley* and *Robert Bromley*, deviſing and intending unjuſtly to oppreſs and aggrieve diſverſe Subjects of our ſaid Lord the King, within this Realm, and wrongfully to charge them with the Payment of great Sums of Money, to the Amount of two Hundred and thirty Pounds, and upwards, on the ſaid thirty-fiſt Day of *July*, in the Year aforeſaid, at the Pariſh of *W.* aforeſaid, in the County of *Warwick* aforeſaid, did conſpire, combine and agree together, that he the ſaid *James Bromley* ſhould in or near the King's Highway there, take from the Perſon of the ſaid *Robert Bromley* the Sum of two Hundred and thirty Pounds, and a ſilver Watch, and the ſaid *James Bromley* in Purſuance of the ſaid Conſpiracy, Combination and Agreement, afterwards, to wit, the ſame Day and Year, at the Pariſh of *W.* aforeſaid, in the Hundred of *H.* in the ſaid County of *Warwick*, did take from the Perſon of the ſaid *Robert Bromley* the Sum of two Hundred and thirty Pounds, and a ſilver Watch, with the fraudulent and wicked Intent and Purpoſe to charge the Inhabitants of the ſaid Hundred with the Payment of the ſaid Sum of two Hundred and thirty Pounds

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Pounds, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Robert Bromley*, on the said thirty-first Day of *July*, in the Year aforesaid, at the said Parish of *W.* within the said Hundred of *H.* in the said County of *Warwick*, fraudulently, wickedly and deceitfully did cause, and procure the said *James Bromley* to take from the Person of him the said *Robert Bromley*, the Sum of Two hundred and thirty Pounds, and a silver Watch, with the fraudulent and wicked Intent and Purpose to charge the Inhabitants of the said Hundred, with the Payment of the said Sum of Two hundred and thirty Pounds to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Conspiring to charge a Man with a Rape, and preferring an Indictment against him for the same, (Bill not found) with an Intent to obtain Money from him.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *James Phelps*, late of the Parish of *St. Andrew Holborn*, in the County of *Middlesex*, Labourer, *Elizabeth* his Wife, and *John Harris* late of the same Labourer, being Persons of evil Name and Fame, and of dishonest Conversation, and wickedly devising, and intending unjustly

unjustly to deprive one *Henry Sommer*, of his good Name, Credit, and Reputation, and also to subject the said *Henry* without any just Cause to the Loss of his Life, and Forfeiture of his Goods on the twentieth Day of *May*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, among themselves did conspire, combine and agree falsely to charge and accuse the said *Henry*, That he the said *Henry*, had then lately before feloniously Ravished, and carnally known the said *Elizabeth*, against her will and Consent. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *James Phelps*, *Elizabeth* his Wife, and *John Harris*, afterwards, to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, according to the Conspiracy, Combination, and Agreement between them as aforesaid had, falsely, unlawfully, and for wicked Gain Sake, in the Presence and Hearing of diverse Persons, did charge and accuse the said *Henry Sommer*, that he the said *Henry*, had then lately before feloniously ravished, and carnally known the said *Elizabeth*. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in further Prosecution of the said wicked Devices and Intentions of them the said *James Phelps*, *Elizabeth* his Wife, and *John Harris*, and according to the Conspiracy, Combination, and agreement between them as aforesaid had, the said *Elizabeth* afterwards, to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid did upon her Oath falsely charge and accuse the said *Henry Sommer* before *Thomas Deveil*, Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace

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in the County of *Middlesex* aforesaid, and also to hear and determine divers Felonies, Trespasses and other Misdeeds committed in the same County, That he the said *Henry Sommer*, then lately before had carnal Knowledge of the Body of her the said *Elizabeth*, against her Consent. And the Jurors aforesaid, upon their Oath aforesaid, do further present That in further Prosecution of the said wicked Devices and Intentions of them the said *James Phelps*, *Elizabeth* his Wife, and *John Harris*, and according to the Conspiracy, Combination, and Agreement between them as aforesaid had, the said *Elizabeth*, by the Name of *Elizabeth* the Wife of *James Phelps*, afterwards, to wit, at the General Quarter Session of the Peace of our said Lord the King, holden at *Hicks's-Hall*, in *St. John-Street*, in and for the County of *Middlesex* aforesaid, on *Monday* the fourth Day of *July*, in the Year aforesaid, before *Thomas Lane*, Esq; *Sir John Gonson*, Knight, *John Martin*, *Andrew Osborne*, Esquires, and other their Fellows, Justices of our said Lord the King, assigned, to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, did exhibit a certain Bill, of Indictment against the said *Henry Sommer*, by the Name and Addition of *Henry Sommer*, late of the Parish of *St. Andrew Holborn*, in the County of *Middlesex*, Yeoman, to *John Smith*, Gent. [Here go on with all the Names of the Grand Jurymen, to whom the Bill was exhibited] good and lawful Men of the said County of *Middlesex*, then and there Sworn, and charged to inquire for our said Lord the King, for the Body of the said County, which said Bill of Indictment was, by the said Jurors above-named, then and there returned in the Court aforesaid, before the said Justices of our said

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said Lord the King above-named, and others their Fellows aforesaid, thus Indorsed (*Not found*) which said Bill followeth, to wit, [*Here recite the Indictment exhibited Verbatim*] with Intent to obtain and acquire unjustly to them the said *James Phelps*, *Elizabeth* his Wife, and *John Harris*, of and from the said *Henry Sommer*, divers Sums of Money for compounding the said pretended Felony and Rape, so falsely charged on him as aforesaid, to the great Damage, Infamy, and Disgrace of the said *Henry Sommer*, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For CONSPIRING.

To charge a Man with receiving stolen Goods, and thereby obtaining Money for compounding the same, and causing him to lay out a Sum of Money, for the Entertainment of the Conspirators at one of their Houses.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *William Goodale*, late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Gent, and *William Burton*, late of the same, Coffee-man, being Persons of evil Name and Fame, and dishonest Conversation, and wickedly devising, and intending one *Anthony Larcake*, not only of his Credit and good Reputation unjustly
to

to deprive, but also to obtain and acquire to themselves of and from the said *Anthony Lancake*, diverse great Sums of Money, on the twentieth Day of *August*, in the Seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did amongst themselves, conspire, combine, and agree falsely to charge and accuse the said *Anthony Lancake*, that he the said *Anthony Lancake*, had then lately before received stolen Goods. And the Jurors aforesaid, on their Oath aforesaid, do further present, That the said *William Goodale*, and *William Burton* afterwards, to wit, on the said twentieth Day of *August*, in the Year aforesaid, according to the said Conspiracy, Combination, and Agreement between themselves before had, as is aforesaid, falsely, wickedly, and for the Sake of unjust Lucre and Gain. did, in the Presence and Hearing of diverse Persons, charge and accuse the said *Anthony Lancake*, that he the said *Anthony Lancake* had bought Hats that were stolen, and they the said *William Goodale*, and *William Burton* did then and there falsely pretend and affirm to the said *Anthony Lancake*, that a Bill of Indictment was then found, at the General Session of Peace, holden at *Hicks's Hall*, in *St. John Street*, in and for the said County of *Middlesex*, on the eighteenth Day of *August*, then last before, against the said *Anthony Lancake* for receiving stolen Goods; whereas in Truth and in Fact, no Bill of Indictment was then found against the said *Anthony Lancake* for the said Offence, so falsely charged on him, or for any such like Crime. And whereas in Truth and in Fact the said *Anthony Lancake* was never guilty of the said Offence, or any other Offence of that Kind. And the Jurors aforesaid, upon
their

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their Oath aforesaid, do further present, That by the said false Accusations, and by diverse Threats and Menaces, that he the said *Anthony Lancake* should be Transported into Parts beyond the Seas for the said pretended Offence; they the said *William Goodale* and *William Burton* did afterwards, to wit, on the said twentieth Day of *August*, in the Year aforesaid, demand, receive, and take of the said *Anthony Lancake*, one Piece of Gold Coin of the proper Coin of this Realm, called a Guinea, for and as a Composition and Agreement of the said pretended Offence, and to discharge the said *Anthony Lancake* from all further Prosecution for the same; and they the said *William Goodale* and *William Burton* did also then and there by the false and wicked Pretences aforesaid, unlawfully Cause and procure the said *Anthony Lancake* to expend and lay out twenty three Shillings of lawful Money of *Great Britain*, at the Dwelling House of the said *William Burton*, in Wine and other Liquors, in the Company, and for the Entertainment of them the said *William Goodale* and *William Burton*, to the great Damage of the said *Anthony Lancake*, and against the Peace of our said Lord the King, his Crown and Dignity.

M

For

For a Conspiracy to charge a Man with committing Sodomy, with one of the Conspirators, and thereby obtaining Money, under Pretence of concealing the same, and desisting from all Prosecutions.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Henry Palmer*, late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Labourer, *Christopher Wood*, late of the same, Labourer, and *Sarah Tuffnell*, late of the same, Widow, being Persons of ill Name and Fame, and dishonest Conversation, and contriving and intending one *George Gore*, not only of his good Name, Credit, and Reputation wholly to deprive, but also to obtain and get to themselves of and from the said *George Gore* diverse Sums of Money, on the twentieth Day of *May*, in the fifth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain, &c.* at the said Parish of *St. James, Clerkenwell*, in the said County of *Middlesex*, among themselves did conspire, combine, and agree falsely to charge and accuse the said *George*, that he the said *George*, then lately before had committed the Crime of Sodomy, commonly called *Buggery*, with him the said *Henry Palmer*. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Henry Palmer, Christopher Wood*, and *Sarah Tuffnell* afterwards, to wit, on the said twentieth

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twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, according to the Conspiracy, Combination, and Agreement between them as aforesaid had, falsely, unlawfully, and wickedly did charge and accuse the said *George Gore*, that he the said *George* then lately before had committed the Crime of Sodomy, commonly called Buggery, with him the said *Henry Palmer*; whereas in Truth and in Fact, the said *George Gore* was never guilty of the said Crime, or of any Crime of the like Nature, and that the said *Henry Palmer*, *Christopher Wood*, and *Sarah Tuffnell*, in Pursuance of, and according to the Conspiracy, Combination, and Agreement aforesaid, between them as aforesaid had, afterwards to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully, wickedly, and unjustly did obtain, acquire, and get into their Hands and Possession, the Sum of five Pounds of lawful Money of *Great Britain*, of the Monies of the said *George Gore* of and from the said *George*, under the aforesaid false Colour and Pretence, and also under Colour and Pretence of concealing the said supposed Crime, and for not prosecuting the said *George Gore* for the same, to the great Damage of the said *George Gore*, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Henry Palmer*, *Christopher Wood*, and *Sarah Tuffnell*, on the said twentieth Day of *May*, in the said fifth Year of the Reign of our said Lord the King, at the said Parish of *St. James, Clerkenwell*,

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in the said County of *Middlesex*, wickedly, unlawfully, and for Lucre and Gain Sake, did threaten the said *George Gore*, that unless he the said *George Gore* would give them the said *Henry Palmer*, *Christopher Wood*, and *Sarah Tuffnell* five Pounds, they the said *Henry Palmer*, *Christopher Wood*, and *Sarah Tuffnell* would swear Sodomy (meaning the detestable Crime of Sodomy called Buggery) against him the said *George Gore*; whereas in Truth and in Fact the said *George Gore* was never guilty of the Crime of Sodomy, or of any such Crime, and the said *Henry Palmer*, *Christopher Wood*, and *Sarah Tuffnell* afterwards, to wit, the same Day and Year, at the Parish aforesaid, in the County aforesaid, by Means of the Threatning aforesaid, unlawfully, wickedly, and injuriously did obtain, acquire, and get to themselves of and from the said *George Gore*, five Pounds of lawful Money of *Great Britain*, of the Monies of the said *George Gore*, to the great Damage of the said *George Gore*, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Conspiring, to charge a Man with a Robbery on the Highway, and preferring an Indictment against him, which was returned Ignoramus.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *A.* the Wife of *Isaac Cooke*, late of the Parish

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Parish of *St. Sepulchre*, in the County of *Middlesex*, Yeoman, *Robert West*, late of the same, Yeoman, and *Thomas North*, late of the same, Yeoman, being Persons of evil Name and Fame, and of dishonest Conversation, and wickedly devising and intending unjustly to deprive one *John South*, of his good Name, Credit and Reputation, and also to subject the said *John South*, without any just Cause, to the Loss of his Life and Forfeiture of his Goods, on the eighth Day of *December*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, among themselves did conspire, combine and agree, falsely to charge and accuse the said *John South*, that he the said *John South* had then lately before feloniously stolen diverse Goods, Chattles and Monies of the said *Isaac Cook*, from the Person, and against the Will of the said *A. Cook*: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. C. R. W.* and *T. N.* afterwards, to wit, on the said eighth Day of *December*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, according to the Conspiracy, Combination and Agreement between them, as aforesaid had, falsely, unlawfully and maliciously, in in the Presence and Hearing of diverse Persons, did accuse the said *John South*, that he the said *John South* had then lately before stolen diverse Goods, Chattles and Monies of the said *Isaac Cook*, from the Person, and against the Will of the said *Ann Cook*, to the great Damage of the said *John South*, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in further

Prosecution of the said wicked Devices and Intentions of them the said *A.C. R.W.* and *T.N.* and according to the Conspiracy, Combination and agreement between them, as aforesaid had, they the said *A.C. R.W.* and *T.N.* afterwards, to wit, at the General Sessions of the Peace of our said Lord the King, holden at *Hicks's-Hall*, in *St. John Street*, in and for the County aforesaid, on the said eighth Day of *December*, in the Year aforesaid, before *Richard Newton, John Milner, Edward Barker*, Esqrs. and others their Fellows, Justices of our said Lord the King, assigned to keep the the Peace in the said County, and also to hear and determine diverse Felonies, Trespasses and other Misdemeanors, committed in the same County, did exhibit a certain Bill of Indictment, against the said *John South*, by the Name and Addition of *John South*, late of the Parish of *St. Giles* in the *Fields*, in the County of *Middlesex*, Vintner, to *Ebenezer Wilson*, (*Here insert the Names of all the Grand Jury*) good and lawful Men of the said County, then and there sworn, and charged to enquire for our said Lord the King, for the Body of the said County; which said Bill of Indictment was, by the same Jurors above named, then and there returned in the Court, before the Justices of our said Lord the King abovenamed, and others their Fellows aforesaid, thus indorsed, [*Bill not found*] which said Bill followeth: *Middlesex*. “ The Jurors
“ for our Lord the King upon their Oath
“ present, That *John South*, late of the Parish
“ of *St. Giles* in the *Fields*, in the County of
“ *Middlesex*, Vintner, on the fifteenth Day of
“ *November*, in the ninth Year of the Reign
“ of our Sovereign Lord *George* the Second,
“ now King of *Great Britain*, &c. with Force
“ and

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“ and Arms, at the Parish aforesaid, in the
 “ in the County aforesaid, in the Dwelling-
 “ house of one *Jane Hopkins*, there situate, in
 “ and upon *Ann*, the Wife of *Isaac Cook*, in
 “ the Peace of God and our said Lord the
 “ King, then and there being, feloniously did
 “ make an Assault, and her the said *Ann* in
 “ bodily Fear and Danger of her Life, in the
 “ said Dwelling-house, then and there felonious-
 “ ly did put, and one Linnen Pocket, of the
 “ Value of one Penny, and three Pieces of
 “ Gold Coin, of the proper Coin of this
 “ Realm, call’d Guineas, of the Value of three
 “ Pounds three Shillings, of the Goods, Chat-
 “ tels and Monies of the said *Isaac Cook*, from
 “ the Person, and against the Will of the said
 “ *Ann Cook*, in the Dwelling-house aforesaid,
 “ then and there, violently and feloniously did
 “ steal, take and carry away, against the Peace
 “ of our said Lord the King, his Crown and
 “ Dignity.” By Means of which said false
 Accusation and Prosecution against him the
 said *John South*, in Manner and Form aforesaid,
 he the said *John South* was greatly defamed
 and disgraced, and put to great Expence of
 his Money, to the great Damage and Disgrace
 of the said *John South*, to the evil Example
 of all others in the like Case offending, and
 against the Peace, &c.

*For a Conspiracy among Workmen to
 raise their Wages.*

Middlesex. **T**HE Jurors for our Lord the
 King upon their Oath present,
 That *A. B.* late of, &c. *C. D.* late of, &c. and
W. S. late of, &c. on the fifth Day of October,

in the fifth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britian*, &c. being Workmen and Journeymen in the Art, Myſtery and manual Occupation of a Wheelwright, and not being content to work and labour in that Art and Myſtery by the uſual Number of Hours in each Day, and at the uſual Rates and Prices, for which they and other Workmen and Journeymen were wont and accuſtomed to work, but falſly and fraudulently conſpiring and combining, unjuſtly and oppreſſively, to increaſe and augment the Wages of themſelves, and other Workmen and Journeymen in the ſaid Art, and unjuſtly to exact and extort great Sums of Money for their Labour and Hire, in their ſaid Art, Myſtery and manual Occupation, from their Maſters who employ them therein, on the ſame Day and Year, at the Pariſh aforeſaid, in the County aforeſaid, together with diſverſe other Workmen and Journeymen in the ſame Art, Myſtery and manual Occupation, unlawfully did aſſemble and met together, and ſo being aſſembled and met, did then and there, unjuſtly and corruptly conſpire, combine and agree among themſelves, that none of the ſaid Conſpirators, after the ſame fifth Day of *October*, would work at any lower or leſſer Rate than five Shillings for hewing of every Hundred of Spokes for Wheels, and eight Shillings for making of every Pair of hinder Wheels; and alſo that none of the ſaid Conſpirators would work Day-Work, or labour any longer, than from the Hour of Six in the Morning, 'till the Hour of Seven in the Evening, in each Day, to the great Damage and Oppreſſion, not only of their Maſters employing them in the ſaid Art, Myſtery and manual Occupation, but alſo of diſverſe others of his Maſteſty's liege Subjects, to the evil Example of all others in the like Caſe offending, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

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The above Precedent is founded on the common Law, and will make a good Charge on the Statute, by concluding against the Form of the Statute in such Case made and provided: The Words of the Stat. 2 & 3 Ed.

6. c. 15. are: " If any Artificers, Workmen or " Labourers, do conspire, covenant or promise to- " gether, or make any Oaths, that they shall not " make or do their Works, but at a certain Price or " Rate, or shall not enterprife, or take upon them " to finish that another hath begun, or shall do but " a certain Work in a Day, or shall work but at " certain Hours and Times, that then every Person

" so conspiring, covenanting, swear- " ing or offending, being lawfully con- " vict thereof, by Witness, Confession, " or otherwise, shall forfeit, for the first " Offence, ten Pounds to the King's " Highness, if he have sufficient to " pay the same, and do also pay the " same within six Days next after his Conviction, " or else shall suffer for the same Offence twenty " Days Imprisonment, and shall only have Bread " and Water for his Sustenance. And for his second " Offence, shall forfeit twenty Pounds to the King, " if he have sufficient to pay the same, and do pay " the same within six Days next after his Conviction, " or else shall suffer for the second Offence Punish- " ment of the Pillory, and for the third Offence, " shall forfeit forty Pounds to the King, if he have " sufficient to pay the same, and also do pay the same " within six Days next after his Conviction, or else " shall sit on the Pillory, and lose one of his Ears, and " also shall at all Times, after that be taken as a Man " infamous, and his Sayings, Depositions or Oath, " not to be credited at any Time, in any Matters " of Judgment."

*The Pun-
ishment of
Labourers
conspiring,
touching the
Times or
Manner of
their Work.*

Justice;

What Magistrates may inquire of, and punish Offenders.

Justices of Assise, Justices of Peace, Mayors, Bailiffs, and Stewards of Leets, at all and every their Sessions, Leets and Courts, shall have full Power and Authority to enquire, hear and determine all and singular Offences committed against this Statute, and to punish, or cause to be punished the Offender, according to the Tenor of the Statute.

For a Conspiracy, and defrauding a Person of Fifty Pounds, under Pretence of procuring his Son the Office and Place of Deputy Comptroller of the Customs, in the Port of Milford.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. H.* late of the Parish of *St. Martin* in the *Fields* in the County of *Middlesex*, Esq; *W. N.* late of the same, Mariner, and *T. J.* late of the same Yeoman, wickedly and unjustly devising and intending to cheat and defraud one *J. W.* of his Monies, on the sixth Day of *August*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish of *St Martin* in the *Fields*, in the County of *Middlesex* aforesaid, falsely, fraudently and unlawfully did conspire, combine and agree among themselves, to obtain, acquire, and get into their Hands and Possession, of and from one *B. W.* the Wife of the said *J. W.* a great Sum of Money, under a false Colour and Pretence of procuring for *G. W.* Son of the said *J. W.* and *B. W.* the Office and Place of Deputy of the said *W. H.* as Comptroller of his Majesty's Customs in the Port of *Milford*, and the Members and Creeks thereunto belonging,

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belonging, And the said *W. H.* in Pursuance of, and according to the Conspiracy, Combination and Agreement aforesaid, between him and the said *W. N.* and *T. J.* so as aforesaid before had, afterwards, to wit, on the said sixth Day of *August*, in the Year aforesaid, falsely, fraudently, unlawfully and deceitfully did pretend to the said *B. W.* that he the said *W. H.* then had, as Comptroller of his Majesty's Customs, in the Port of *Milford*, and the Members and Creeks thereunto belonging, Power and Authority, then and there to appoint the said *G. W.* to be his Deputy, and that the said *T. J.* in Pursuance of, and according to the Conspiracy, Combination, and Agreement aforesaid, between him and the said *W. H.* and *W. N.* so as aforesaid before had, did then and there fraudulently pretend and affirm to the said *B. W.* that he the said *T. J.* had Power and Authority on Behalf of the said *W. H.* to dispose of the said Office and Place of Deputy, to the said *W. H.* as aforesaid, and that the said *T. J.* and *W. N.* in Pursuance of, and according to the Conspiracy, Combination, and Agreement aforesaid, between them and the said *W. H.* so as aforesaid had, afterwards, to wit, on the said sixth Day of *August*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, by the false Pretences aforesaid, and also by Colour and Pretence of a certain Deputation, purporting to be under the Hand and Seal of the said *W. H.* and purporting that the said *W. H.* had thereby deputed and impowered the said *G. W.* to act and officiate for him the said *W. H.* as his Deputy, in the Office, Business, and Employment of a Comptroller of the Customs, at *Aberdwy*, a Member or Creek belonging to the chief Port of *Milford*, fraudulently and unlawfully did obtain, acquire, and get into their Hands and Possession, the Sum of fifty Pounds of lawful Money of *Great Britain*, of the Monies of the said *J. W.* of
and

and from the said *B. W.* that is to say, the said *T. J.* the Sum of fifteen Pounds, and the said *W. N.* the Sum of thirty-five Pounds; whereas in Truth and in Fact, the said *W. H.* had not then any Power or Authority to appoint the said *G. W.* to be his Deputy, or in any wise to depute and impower him the said *G. W.* to act and officiate for him the said *W. H.* as his Deputy in the Office Business, and Employment of a Comptroller of his Customs of *Aberdewy* aforesaid, and so the Jurors aforesaid upon their Oath aforesaid, do say, that the said *W. H. W. N.* and *T. J.* according to the Conspiracy, Combination, and Agreement between them as aforesaid before had, them, the aforesaid *J. W.* and *B.* his Wife, of the said Sum of fifty Pounds, in Manner and Form aforesaid, fraudulently and unlawfully did deceive and defraud, to the great Damage of the said *J. W.* and against the Peace of our said Lord the King, his Crown and Dignity.

Conspiracy and Champerty defined.

CONSPIRATORS be they that do Confeder, or bind themselves by Oath, Covenant or other Alliance, that every of them shall aid and bear the other falsely and maliciously, to indite, or cause to indite, or falsely to move, or maintain Pleas, and also such as cause Children within Age, to appeal Men of Felony, whereby they are imprisoned and sore grieved, and such as retain Men in the Country with Liveries or Fees for to maintain malicious Enterprizes, and this extendeth as well to the Takers as to the Givers. Stewards and Bailiffs of great Lords, which by their Seigniorie, Office or Power, undertake to bear or maintain Quarrels, Pleas, or Debates that concern other Parties.

CHAMPERTORS

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CHAMPERTORS be they that move Pleas and Suits, and sue them at their proper Costs to have part of the Land or Gain in Variance. Vide. 33. Ed. 1. Stat. 2. See of other Conspirators, Stat. 2. & 3. Ed. 6. c. 15. touching Victuallers, &c.

From the above Definition of Conspirators it seems clearly to follow, that not only those who actually cause an innocent Man to be indicted, and also to be tried upon the Indictment, whereupon he is lawfully acquitted, are properly Conspirators; but that those also are guilty of this Offence, who barely conspire to indict a Man falsely and maliciously, whether they do any Act in Prosecution of such Conspiracy, or not, for the Words of the Statute seem expressly to include all such Confederacies under the Notion of Conspiracy, whether there be any Prosecution thereof or not.

1 Hawk. c. 72.
Sect. 2.

Mr. Serjeant Hawkins in his first Book of his Pleas of the Crown, ch. 72. Sect. 2. is of Opinion, That the malicious putting a Man to the unreasonable Charge, Scandal and Trouble of a criminal Prosecution, which is so palpably groundless, as not to have Probability enough to induce a Grand Jury to find an Indictment, is a good Foundation of Complaint, and a Grievance as much within the Statute, as the putting one to the Charge and Vexation of a groundless Action, nor is the same wholly unsupported by

Authority, as appears by Poulter's 9 Co. 56.

Case in Coke's ninth Report; but since it doth not appear to have been solemnly resolved, that such an Offender is indictable upon the Statute, it seems to be more safe and

1 Hawk. ch. 72.
Sect. 2.

adviseable to ground an Indictment of this Kind upon the Common Law, than upon the

the Statute, since there can be no Doubt, but that all Confederacies whatsoever, wrongfully to prejudice a third Person, are highly criminal at Common Law, as where diverse Persons confederate together by indirect Means to impoverish a third Person, as falsely and maliciously to charge a Man with being the reputed Father of Bastard Child, or to maintain one another in any Matter, whether it be true or false.

1 Levinz. 62. 126.

1 Sid. 174. 1 Keb. 350.

It plainly appears from the Words of the Statute, that one Person alone cannot be guilty of Conspiracy within the Purport of it, from whence it follows, That if all the Defendants who are prosecuted for such a Conspiracy be acquitted but one, the Acquittal of the rest is the Acquittal of both the one also; also upon the same Ground it been holden, That no such Prosecution is maintainable against a Husband and Wife only, because they are esteemed but as one Person in Law, and are presumed to have but one Will.

1 Hawk. c. 72. Sect. 8.

He who is convicted at the Suit of the King of a Conspiracy to accuse another of a Matter which may touch his Life, shall have Judgment that he lose the Freedom and Franchise of the Law (whereby he is disabled to be put upon any Jury, or to be sworn as a Witness, or even to appear in Person in any of the King's Courts;) and also that his House, Lands, and Goods shall be seized into the King's Hands, and his Houses and Lands streped and wasted, his Trees Rooted up and arrased, and his Body imprisoned. And this is commonly called a villanous Judgment, and is given by the Common Law, and not by any Statute, and is said generally in some Books, to be the proper Judgment upon every Conviction of Conspiracy

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Conspiracy, at the Suit of the King, without any Restriction to such as endangered the Life of the Party; but this Point is no where found to be settled.

1 Hawk. c. 72.
Sect. 9.

The above Judgment is seldom or ever given in this Case, but the usual Method that is taken at this Time to punish the Party, is by Pillory, Fine, and Imprisonment, and 'till they find sufficient Sureties for their good Behaviour for a certain Term.

CONSTABLE.

Against a Constable, for not presenting the Inhabitants of a Parish for not repairing a Highway.

Oxfordshire. **T**H E Jurors for our Lord the King upon their Oath present, That *Charles Rose*, late of the Liberty of *Eye and Dunston*, in the County of *Oxford*, Yeoman, on the thirty-first Day of *July*, in the second Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. and long before, being Constable of the Liberty aforesaid, in the County aforesaid, and then well knowing a certain Part of the common and ancient King's Highway, called *Stretton Lane*, used for all the Subjects of our said Lord the King, and his Ancestors, with their Horses, Coaches, Carts and Carriages, to go, return, pass, ride and labour at their Will, and lying within the Liberty aforesaid, containing in Length twenty Yards, and in Breadth eight Yards, then and long before to have been very ruinous, miry, deep, broken, and in such Decay, for Want of due Reparation

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tion and Amendment of the same, that the liege Subjects of our said Lord the King, by the same Way, with their Horses, Coaches, Carts and Carriages, had not been able, nor then were able to go, return, pass, ride and labour, without great Danger of their Lives, and the Loss of their Goods : Nevertheless, the said *Charles Rose* afterwards, to wit, on the said thirty-first Day of *July*, in the Year aforesaid, at *Oxford*, in the County aforesaid, at the Assises and General Session of Oyer and Terminer, then and there holden for the County aforesaid, unlawfully and contemptuously did neglect to make and return a Presentment against the Inhabitants of the Liberty aforesaid, in the County aforesaid, for not repairing and amending the said common King's Highway, as he the said *Charles Rose* ought to have done, and of Right did belong to him to do, to the great Hindrance of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

C O N T E M P T.

Against a Coroner refusing to take an Inquisition.

Lincoln. **T**HE Jurors for our Lord the King upon their Oath present, That on the twenty-seventh Day of *May*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. one *Dorothy Curtis*, at *Long-Leadenham*, in the County of *Lincoln*, was drowned and suffocated in a certain Pond, and of that Drowning and Suffocating

Suffocating she the said *Dorothy Curtis* then and there instantly died ; and that the Body of the said *Dorothy Curtis*, at *Long-Leadenham* aforesaid, in the County aforesaid, lay dead, of which one *W. D.* late of G. in the County aforesaid, Gentleman, afterwards, to wit, on the said twenty-seventh Day of *May*, in the Year aforesaid, then being one of the Coroners of our said Lord the King, for the County aforesaid, at *Gumerby* aforesaid, had Notice : Nevertheless, the said *W. D.* the Duty of his Office, in that Behalf, not regarding, afterward, to wit, on the said twenty-seventh Day of *May*, in the Year aforesaid, at *Gumerby* aforesaid, in the County aforesaid, to execute his Office of and concerning the Premisses, and to take Inquisition for our said Lord the King, according to the Laws and Custom of this Realm, unlawfully, obstinately and contemptuously did neglect and refuse ; and that the said *W. D.* no Inquisition in that Behalf, as yet, hath taken, to the great Hinderance of Justice, in Contempt of our said Lord the King, and his Laws, and against the Peace, &c.

For Refusing to watch with the Constable, when duly summoned.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present That *Z. Y.* late of —, Yeoman, on the third Day of *August*, in the tenth Year, &c. and long before, was an Inhabitant in the Parish aforesaid, in the County aforesaid, and that the said *Z. Y.* then and there, was duly summoned, and required

Indictment upon
a Presentment of
Constable.

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quired to watch in the Night of the same Day with E. S. then one of the Constables of the same Parish, in the County aforesaid, nevertheless, the said Z. Y. his Duty in that Behalf wholly neglecting, then, to wit, in the Night of the same Day, or in any Part of the same Night, did not watch with the said Constable, in the Parish aforesaid, in the County aforesaid; but to do his Duty in that Behalf, then and there, totally did neglect, and wilfully, obstinately and contemptuously, then and there, did make Default, in Contempt of our said Lord the King, and his Laws, and against the Peace, &c.

It seems, that if a Man, who is compellable to watch, shall contemptuously refuse upon Request of the Constable, the Constable may present him at the Assises, or Session of the Peace, for his Default; which Presentment is to be drawn into Form, as above, and returned by the Grand Inquest into Court.

For a Contempt by a Headborough in refusing to convey a Person to Bridewell, committed by a Justice of Peace.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, that on the third Day of *August*, in the ninth Yer of the Reign, &c. one *John Pettit*, at the Parish of *St. George* in the *East*, in the County of *Middlesex*, was brought by one *Isaac Wilson*, then being one of the Headboroughs of the same Parish, before *Clifford William Philips*, Esq; then and yet one of the Justices of our said

said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, and the said *John Pettit*, then and there was charged, upon the Oath of one *Susanna Bailey*, for violently assaulting her, in Breach of his Majesty's Peace; which said *John Pettit*, then and there, was examined before the said *Clifford William Philips*, the Justice aforesaid, concerning the said Offence, so as above charged upon him. Upon which, and for that the said *John Pettit* then could not find Sureties before the same Justice for his personal Appearance at the then next General Quarter-Session of the Peace, to be holden for the County aforesaid to answer of and concerning the Premises, he the said *Clifford William Philips*, Justice of the Peace aforesaid, in due Form of Law, did then and there make a certain Warrant, under his Hand and Seal, bearing Date on the said third Day of *August*, in the Year of our Lord One Thousand seven Hundred and thirty-five, directed to the Keeper of *Bridewell*, commanding the said Keeper, that he should receive into his Custody the Body of the said *John Pettit*, charged upon the Oath of the said *Susanna Bailey* with the Premises above specified, and for want of Sureties; and the said Justice, by his Warrant aforesaid, did command the said Keeper the said *John Pettit* safely to keep, until he the said *John Pettit*, by due Course of Law, from thence should be discharged; which same Warrant afterward, to wit, on the said ——— Day of ——— in the said ninth Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County aforesaid, was delivered to the said *Isaac Wilson*, then being one of the Headboroughs

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of the same Parish, and then and there having the said *John Pettit* in his Custody, for the aforesaid Cause; and the said *Isaac Wilson*, then and there, was required and commanded, by the said *Clifford William Philips*, the aforesaid Justice, immediately to convey the said *John Pettit* to the said *Bridewell*, and to deliver the said *John Pettit* to the Keeper thereof, together with the aforesaid Warrant. And the Jurors aforesaid upon their Oath aforesaid, do further present, That the said *Isaac Wilson*, late of the Parish aforesaid, in the County aforesaid, Yeoman, afterwards, to wit, on the said third Day of *August*, in the Year last aforesaid. then as aforesaid, being one of the Headboroughs of the same Parish, and then having the said *John Pettit* in his Custody for the aforesaid Cause, at the Parish aforesaid, in the County aforesaid, unlawfully and contemptuously did neglect and refuse to convey the said *John Pettit* to *Bridewell*, together with the said Warrant, as he the said *Isaac Wilson*, by Virtue of his said Office according to Law, should and ought to have done, to the great Hinderance of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For



*For a contempt by a High Constable,
in disobeying an Order of Sessions,
for producing an Account of all
Monies by him received on several
County Rates.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That at the General Quarter Session of the Peace of our Lord the King, holden for the County of *Middlesex*, at *Hicks's-Hall* in *St. John-Street*, in the County aforesaid, by Adjournment on *Saturday*, to wit, the twentieth Day of *July*, in the second Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. before *Robert Thornbill*, *John Martin*, *John Ellis*, *Henry Trent*, Esquires, and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace, in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County. It was Ordered, by the same Justices and Court there as followeth (to wit,) " It is Ordered by this Court, That the present and late High Constables of this County herein after named, to wit, *William Nynd*, Gent. present High Constable of the City and Liberty of *Westminster*; and *Thomas Jones*, Gent. late High Constable of *Holbourn* Division; *William Fletcher*, Gent. late High Constable of *Finsbury* Division; *Joseph Priddy*, Gent. present High Constable of the *Tower* Division; *Clifford William Phillips*, Gent. late High Constable of the same Division;

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“ Division; *William Lonsdale*, Gent. present
 “ High Constable of *Kensington* Division; *John*
 “ *Jones*, Gent. late High Constable of the
 “ same Division; *John Rumball*, Gent. and
 “ *Henry Muckris*, Gent. present High Con-
 “ stables within the Hundred of *Edmonton*;
 “ *William Newman*, Gent. and *Richard Wilson*,
 “ Gent. present High Constables within the
 “ Hundred of *Gore*, do personally attend and
 “ produce before the Court of the next Gene-
 “ ral Session of the Peace to be holden for this
 “ County, at *Hic's-Hall* in *St. John-Street*, in
 “ the said County, by Adjournment on *Tues-*
 “ *day* the twenty-seventh Day of *August* next,
 “ at three of the Clock in the Afternoon of
 “ the same Day a true and perfect Account
 “ in Writing of all Monies by them respec-
 “ tively received, during their respective Con-
 “ tinuance in their Office of High Constable,
 “ or after their, or any of their being dis-
 “ charged from the same, for Relief of maim-
 “ ed Soldiers and Mariners, for the *Marshal-*
 “ *sea*, *King's Bench*, and Hospitals; for the
 “ passing and relieving of Vagrants; for Re-
 “ pair of the publick Bridges of this County,
 “ and for Repair of the House of Correction
 “ at *Clerkenwell*, in the same County, or for
 “ any of the Purposes aforesaid, and of their
 “ and of their respective Payments out of the
 “ same, together with the Receipts and Vou-
 “ chers to them respectively given for such
 “ Payments; and also a true Account in
 “ Writing of all such Arrears as are yet stand-
 “ ing out and unreceived, upon the several
 “ Rates made for raising of Monies, for any
 “ of the Purposes aforesaid, from any and
 “ what Parishes or Places within their respec-
 “ tive

“ tive Districts, and of the true Christian
 “ Names and Surnames of the petty Constables,
 “ or Parish Officers, who have made Default
 “ in not paying the said Arrears: And hereof
 “ the said present and late High Constables
 “ are not to fail, as they and every of them
 “ will answer the contrary at their Peril.”

As by the said Order of Court, is manifest and appeareth, of which said Order the said *Thomas Jones*, one of the High Constables in the abovesaid Order named, afterwards, to wit, on the nineteenth Day of *August*, in the Year abovesaid, at the Parish of *St. Sepulchre*, in the said County of *Middlesex*, had Notice; nevertheless the said *Thomas Jones*, late of the Parish of *St. Andrew Holbourn*, in the County of *Middlesex*, Gent. on the said twenty-seventh Day of *August*, in the Year aforeaid, (then being High Constable of *Holborn* Division as in the Order above-mentioned) at the Hour of three in the Afternoon, of the same Day, and throughout that Day, at the Parish of *St. Sepulchre* aforeaid, in the County aforeaid, unlawfully and contemptuously did neglect and refuse personally to attend and produce before the Court of General Session of the Peace, holden for the County aforeaid, at *Hicks's-Hall* aforeaid, in the County aforeaid, by Adjournment aforeaid, on the said *Tuesday* the twenty-seventh Day of *August*, in the Year aforeaid, at the Hour aforeaid. a true and perfect Account in writing of all Monies by him received, during his Continuance in his said Office of High Constable for Relief of maimed Soldiers and Mariners, for the *Marshalsea*, *King's-Bench*, and Hospitals, for the passing and relieving of Vagrants; for Repair of publick Bridges of the County aforeaid, and for the Repair of the House of Correction at *Clerkenwell*, in the same County,

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or for any of the Purposes aforesaid, and of his Payments out of the same, together with the Receipts and Vouchers to him given for such Payments, and also a true Account in Writing of all such Arrears as were then standing out, and unreceived upon the several Rates made for raising of Monies for any of the Purposes aforesaid, from any and what Parishes and Places within his Division, and of the true Christian Names and Surnames of the petty Constables, or Parish Officers, who have made default in not paying the said Arrears, as by the said Order, he the said *Thomas Jones*, was required to do, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Constable for not appointing any Watch, and absenting himself from Watching.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Aaron Bateman*, late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Butcher, on the ninth Day of *August*, in the third Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. and long before was, and still is one of the Constables of the Parish aforesaid, in the County aforesaid; and that the aforesaid *Aaron Bateman*, by Reason of his Office aforesaid, ought to appoint sufficient Watch to be kept through the whole Night, by Men Inhabitants of the same Parish, in convenient Places within

within the Parish aforesaid, for the Preservation of the Peace of our said Lord the King, and for the apprehending of Malefactors and suspicious Persons, nevertheless the said *Aaron Bateman* being Constable, and neglecting his Duty in this Part in the Night, of the aforesaid ninth Day of *August*, in the Year aforesaid, or in any Part of the said Night, at the Parish aforesaid, in the County aforesaid, did not appoint any Watch to be kept by Men Inhabitants of the same Parish, within the Parish aforesaid, but then and there the whole Night aforesaid from his said Office voluntarily and obstinately did absent himself, and contemptuously did make default therein, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For refusing to execute the Office of Chief Constable of a Hundred.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That at the General Quarter Session of the Peace of our said Lord the King, holden at *Hicks's-Hall*, in *St. John-Street*, in and for the County of *Middlesex*, by Adjournment on *Thursday* the ninth Day of *October*, in the fourth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain &c.* before *Thomas Lane*, *Edward Barker*, *John Martin*, *Thomas Derveil*, Esquires, and others their Fellowes, Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies,

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Felonies, Trespases, and other Misdeeds committed in the same County, one *William Bird*, late of the Parish of *St. Andrew Holbourn*, in the said County of *Middlesex*, Turner, then and long before being an Inhabitant, and residing in the Parish aforesaid, within the Hundred of *Ossulston*, in the said County of *Middlesex*, and a proper Person to execute the Office of Chief Constable, within the said Hundred, at the same Session by the Justices above-named, in due Manner was elected to be one of the Chief Constables of the Hundred aforesaid, in the room and stead of one *Jonas Barlow*, whereof the said *William Bird* afterward, to wit, on the fifteenth Day of the same Month of *October*, in the Year aforesaid, at the said Parish of *St. Andrew Holbourn*, in the said County of *Middlesex*, had Notice; nevertheless the said *William Bird* his Duty in that Behalf, not regarding, but contriving and intending as much as in him lay, to prevent and hinder the due Execution of Justice, from the said fifteenth Day of *October*, in the Year aforesaid, until the Day of taking this Inquisition, at the Parish aforesaid, within the Hundred aforesaid, in the County aforesaid, unlawfully, wilfully, obstinately, and contemptuously did refuse to take upon himself and execute the said Office of Chief Constable, within the Hundred aforesaid, contrary to his Duty in that Behalf; in manifest Contempt and Delay of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Every Justice of Peace may cause two Constables to be chosen in each Hundred; and this seemeth to be meant of the High Constables
 Lamb 190.

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bles of Hundreds, and to include and imply of Congruence the Swearing of them.

And by the Stat. 34 H. 8. cap. 26. two Justices of the Peace, the one being of the Quorum, may appoint the High Constables in Wales.

The usual Manner is, that these High Constables of Hundreds be chosen either at the Quarter Sessions of the Peace; or, if out of the Sessions, then by the greater Number of the Justices of the Peace of that Division where they dwell: And likewise that they be sworn, either at the Sessions, or by Warrant from the Sessions; which Course hath been allowed and commended by the Judges of Assise. Dalt. cap. 25.

For refusing to take the Oath of Petty Constable, and to execute that Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That Robert King, late of the Parish of St. Giles in the Fields, in the County of *Middlesex*, Clock-maker, on the eight Day of *October*, in the fifth Year of the Reign of our Sovereign Lord George the Second, King of *Great Britain*, &c. and long before, was an Inhabitant, and residing within the Parish aforesaid, in the County aforesaid, and an able Person to serve the Office of Petty Constable for the same Parish, and he the said Robert King, on the said eight Day of *October*, in the Year aforesaid at the Vestery-Room of the same Parish, there situate, lawfully and in due Manner was elected and chosen by John Williams, Abraham Grey, Peter Dubamel, John Lock and Henry Gough, ancient Inhabitants of the same Parish

Parish, and usually present at the Election of Parish Officers for the Parish aforesaid, into the Office of Petty Constable for the said Parish of *St. Giles* in the *Fields*, in the said County of *Middlesex*, for one Year from thence next following, to do and execute all and singular those Things, which belong to the Office of Constable; and that the said *Robert King* afterwards, to wit, on the first Day of *November* in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, had due Notice thereof, and then and there was required to appear before *John Medows*, Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespasses and other Misdemeanors committed in the same County, on the same first Day of *November*, in the Year aforesaid, to take his Oath for the due executing the said Office of Petty Constable for the same Parish, according to the Duty of that Office: Nevertheless, the said *Robert King* his Duty in that Behalf not regarding, but contriving and intending wholly to Neglect to serve the said Office of Petty Constable, after he the said *Robert King* was so elected and chosen into the said Office, as aforesaid, to wit, on the said first Day of *November*, in the Year aforesaid, and continually afterwards, untill the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, unlawfully and contemptuously did refuse, and still doth refuse, to take his said Oath for the due executing the said Office of Petty Constable, and in any wise to execute the same Office, to the great Hinderance of Justice, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Petty

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Petty Constables are Assistants to High Constables in each Town, Parish or Vill, the Chusing of whom properly belongs to the Court Leet; but now they are elected by the Parishioners, and sworn by a Justice of the Peace, &c. who may, on just Cause, remove them.

By the Stat. 13. & 14. Car. 2. c. 12. If any Constable, Headborough or Tithingman, shall die or go out of the Parish, any two Justices of the Peace may make and swear a new Constable, &c. until the Lord of the Manor shall hold a Court, or until the next Quarter Sessions, who shall approve of the said Officers or appoint others. And if any Officer shall continue above a Year the Quarter Sessions may discharge him and appoint another until the Lord shall hold a Court.

These Constables are appointed yearly, and are to be Men of Honesty, Knowledge, and Ability: And if they refuse to serve, 3 Rep. 41. p. 11. 5 Mod. 96. may be bound over to the Sessions, and indicted and fined, or fined in the Leet.

COTAGES and INMATES.

For erecting a Cotage and continuing the same, contrary to the Stat, 31 Eliz. c. 7. § 1 & 2.

Salop. **T**HE Jurors for our Lord the King upon their Oath present, That Richard Phelps, late of the Parish of Oswestry, in the County of Salop, Yeoman, on the eleventh Day of March, in the fourth Year of the Reign of our Sovereign Lord George the Second, King of Great Britain, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, did make, build and erect, and cause to be made, built and erected

erected, a certain Cotage, for Habitation and Dwelling of himself and Family, in a certain Place there, call'd *Elbow-Lane*, and he, the said *Richard Phelps*, did not assign and lay to the same Cotage and Building, four Acres of Ground, to be continually occupied and manured therewith, so long as the said Cotage should be inhabited, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *Richard Phelps*, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the said Cotage, so as aforesaid, erected for Habitation and Dwelling, unlawfully and willingly did uphold, maintain and continue, from the said eleventh Day of *March*, in the Year aforesaid, until the fourteenth Day of *November*, in the fifth Year of the Reign of our said Lord King *George* the Second; to which same Cotage he, the said *Richard Phelps*, did not assign and lay four Acres of Ground, to be used and occupied with the same, as aforesaid, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 31st of *Eliz.* c. 7. 'tis enacted, *That no Person, shall within the Realm of England, make, build, or erect, or cause to be made, builded, or erected, any Manner of Cotage for Habitation or Dwelling, nor convert or ordain any Building or Housing made, to be used as a Cotage for Habitation or Dwelling, unless the same Person do assign, and lay to the same Cotage or Building, four Acres of Ground at least, to be accounted according to the Statute or Ordinance de terris mensurandis, being his or her own Freehold or Inheritance, lying*
near

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near to the said Cotage, to be continually occupied and manured therewith, so long as the same Cotage shall be inhabited, upon Pain to forfeit to the Queen, her Heirs or Successors, Ten Pounds for every such Offence.

That every Person that shall willingly uphold, maintain and continue, any such Cotage so erected, converted, or ordained for Habitation or Dwelling, whereunto four Acres of Ground, as is aforesaid, shall not be assigned and laid to be used and occupied with the same, shall forfeit to the Queen, her Heirs or Successors, forty Shillings for every Month, that any such Cotage shall be by him or them upholden, maintain'd and continued.

The above Indictment may be divided into two distinct Offences ; first, for erecting and building, upon which the Penalty of ten Pounds is given ; and, secondly, for upholding and maintaining, upon which the Penalty of forty Shillings per Month is given : So that a Person (who did not build such Cotage) may be indicted, that upholds and maintains the same, tho' built by a Person unknown to him, in which Case you must vary the Indictment, and say, that on such a Day (which you need not shew particularly) a certain Person, to the Jurors aforesaid, unknown, did erect and build, &c. and that, from such a Time to such a Time, the said such a one did unlawfully and willingly, uphold and maintain, &c. as may very readily be framed by the foregoing Precedent.

By the Stat. 43 Eliz. c. 2 § 5. There are Exceptions in Favour of Cotages built on Wastes or Commons, for the Use of impotent Persons, to be erected by Churchwardens and Overseers of the Poor, by Leave of the Lord of the Manor, and also to place Inmates, or more Families in any of them. And

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And of Cotages in Boroughs or Market-Towns, and those of Labourers in Mines or Quarries, or in Brick, Tile, Lime or Coals. Stat. 31 Eliz. c. 7. § 5.

And of such as are within a Mile of the Sea, or in a Forest, Chace, Warren or Park, and of those of Herdmen, Sheperds, or impotent Persons; or of those made by Order of Assizes or Sessions. Stat 31 Eliz. c. 7. § 6.

Offences against the Stat. 31 Eliz. are to be determined before Justices of Assize, Justices of the Peace in their open Sessions, and every Lord within the Precinct of his Leet, and no others, as well by Indictment, as otherwise, by Presentment or Information; and who may award Execution for the levying the several Forfeitures aforesaid, by Fieri facias, Elegit, Capias, or otherwise, as the Cause shall require.

For receiving and lodging Inmates.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Adam Johnson*, late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Cordwainer, on the first Day of *July*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. being the Occupier of a certain Cotage situate in the Parish aforesaid, in the County aforesaid, and then inhabiting and dwelling in the same Cotage with his own Family, he the said *Adam Johnson*, then and there, with Force and Arms, unlawfully did receive, lodge and place one *Henry Carr*, *Mary* his Wife, and *Ann* his Daughter, as Inmates, to inhabit and dwell in the same Cotage; and the said *Henry Carr*, *Mary* his Wife, and *Ann* his Daughter, so received

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ceived, lodged and placed, as aforesaid, he the said *Adam Johnson*, from the said first Day of *July*, in the Year aforesaid, until the ninth Day of *October*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully and willingly did suffer to remain and dwell in the said Cotage, as aforesaid, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 31. Eliz. c. 7. 'Tis enacted, There shall not be any Inmate, or more Families or Households than one, dwelling or inhabiting in any one Cotage made, or to be made or erected, upon Pain that every Owner, or Occupier of any such Cotage, placing, or willingly suffering any such Inmate, or other Family than one, shall forfeit and lose to the Lord of the Leet, within which the Cotage shall be, the Sum of ten Shillings for every Month that any such Inmate, or other Family than one, shall dwell or inhabit in any one Cotage, as aforesaid.

Offences to be determined as aforesaid.

Vide the Exception mentioned in the Stat. 43 of Eliz. c. 2. § 5. under the Precedent for erecting Cotages.

Inmates are those Persons of one Family, that are suffered to come and dwell in one Cotage together with another Family, by which the Poor of the Parish will be increased.

Terms de Ley
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D E C I E T.

For defrauding a Person of a Sum of Money, by Colour of a false and counterfeit Letter, and other false Tokens upon the Stat. 33 H. 8. c. 1.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Lawrence Petit*, late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Taylor, being a Person of ill Name and Fame, and dishonest Conversation, and not minding to get his Living by Truth and honest Labour, according to the Laws of this Realm, but compassing and devising how he might unlawfully obtain and get into his Hands and Possession the Monies of the honest Liege Subjects of our said Lord the King, for the Maintenance of his unthrifty Living, on the sixth Day of *November*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid falsely, and deceitfully did pretend and affirm to one *Thomas Turner*, that his the said *Lawrence Petit's* Name was *Henry Haynes*, and that he was the Son of *Henry Haynes* of *Newcastle*, in the County of *Stafford*, Esq; and Nephew to *Mr. Haynes* of *Newport*, in the County of *Salop* (meaning *John Haynes* of *Newport*, in the County of *Salop*, Clerk) and that the said *Lawrence Petit*, a certain false and counterfeit Letter, in the Name of him the said *John Haynes*, as a true Letter of the proper Hand Writing of him the said *John Haynes*, falsely, fraudulently, and
deceitfully

decietfully to the said *Thomas Turner*, then and there did deliver (the said *John Haynes* of *Newport*, in the County of *Salop*, Clerk, then and long before being the Friend and intimate Acquaintance of him the said *Thomas Turner*) by which said false and counterfeit Letter, it was mentioned, that the said *John Haynes* desired the said *Thomas Turner* to supply the Bearer thereof, Mr. *Henry Haynes* with the Sum of sixty Guineas, and Place it to his Account (meaning the Account of him the said *John Haynes*) and that the said *Thomas Turner*, then and there believing the said false and counterfeit Letter to be of the proper Hand Writing of him the said *John Haynes*, did then and there pay and deliver to the said *Lawrence Petit*, sixty Pieces of Gold Coin of the proper Coin of this Kingdom called Guineas, of the Value of sixty-three Pounds of lawful Money of *Great Britain*; whereas in Truth and in Fact, the said *John Haynes* never did write or send, or cause to be written or sent any such Letter to the said *Thomas Turner*, desiring the said *Thomas Turner* to supply the said *Henry Haynes*, with any Sum of Money whatever. And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *Lawrence Petit*, on the said sixth Day of *November*, in the Year aforesaid, at the said Parish of *St. James*, within the Liberty of *Westminster*, in the said County of *Middlesex*, by Colour of the said counterfeit Letter, and by the said false Pretences, unlawfully, falsely, fraudulently, and deceitfully did obtain and get into his Hands and Possession, of and from the said *Thomas Turner*, the said Sum of sixty-three Pounds of lawful Money of *Great-Britain*, of the Monies of him the said *Thomas Turner*, and the said *Lawrence Petit*, the said *Thomas Turner* of his Money aforesaid,

O 2

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said, then and there fraudulently, and decietfully did decieve and defraud, to the great Damage and Deceit of the said *Thomas Turner*, to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

Offences of this Kind depend upon the Stat. 33 H. 8. c. 1. by which 33 H. 8. ch. 1: 'tis enacted, That if any Person or Persons shall falsely and decietfully obtain, or get into his or their Hands or Possession, any Money, Goods, Chattles, Jewels, or other Things of any other Person or Persons, by Colour and Means of any false Token, or counterfeit Letter, made in another Man's Name, to a special Friend or Acquaintance, for the obtaining Money, &c. from such Person, and shall be thereof convicted, by Witnes taken before the Lord Chancellor, or before the Justices of Assise, or before the Justices of Peace of any County, City, Borough, Town, or Franchise in their General Sessions, or by Action in any of the King's Courts of Record, every such Offender shall suffer such Punishment, by Imprisonment, setting upon the Pillory, or otherwise by any corporal Pain, except Pains of Death, as shall be appointed by those before whom he shall be so Convict.

And it is further enacted, by the said Statute, That as well the Justices of Assise for the Time being, as also two Justices of the Peace, in the same County, whereof the one to be of the Quorum, may call and convene by Process, or otherwise, to the said Assises, or General Sessions, any Person being suspected of any of the Offences aforesaid, and to commit or bail him till the next Assises or General Sessions.

Sir

*Sir Edward Coke is of Opinion,
That the Offender cannot be fined in 3 Inst. 123.
a Prosecution upon this Statute, because 'tis ex-
pressly ordained, that some corporal Punishment shall
be inflicted, and no other is mentioned: However,
there is a Precedent in Croke's Report, by which
it appears, that one convicted on
Cro. Car. 564. such a Prosecution, hath been ad-
Terry's Case. judged not only to stand on the Pil-
lory, but also to pay a Fine of five Hundred Pounds,
and to be bound with good Securities to his good
Behaviour.*

*The Party grieved by such Deciet, has his Re-
medy by Way of Action or otherwise, for the same
Money, Goods, Chattles, Jewels, or other Things
so obtained, as he might have had if this Act had
not been made. Stat. 33 H. 8. c. 1. § 4.*

*For winning Goods at an unlawful
Game by throwing Dice; as in-
dictable at common Law.*

Middlesex. **T**HE Jurors for our Lord the
King upon their Oath present,
That *Thomas Heath*, late of the Parish of Saint
Andrew Holborn, in the Couty of *Middlesex*, La-
bourer, and *William Bennett*, late of the same
Place, Labourer, being Persons of evil Name
and Fame, and of dishonest Conversation, and
not caring to get their Livelihood by honest Labour
but by Fraud and Deciet, maintaining their idle
Course of Life, on the tenth Day of *March*, in
the sixth Year of the Reign of our Sovereign
Lord *George the Second*, now King of *Great-
Britain, &c.* at the Parish aforesaid, in the Coun-
ty aforesaid, at an unlawful Game, Artifice and
Practice with Dice, and by laying Wagers with

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one *Thomas Winston*, relating to the throwing the Dice, did, fraudulently and deceitfully win, obtain, and get to themselves, of and from the said *Thomas Winston*, two Pair of Brass Candlesticks, of the Value of ten Shillings, of the Goods and Chattles of the said *Thomas Winston*, and him the said *Thomas Winston*, of his said Goods and Chattles, in Manner and Form aforesaid, then and their fraudulently and deceitfully, did decieve and defraud, to the great Damage of the said *Thomas Winston*, and against the Peace of our said Lord the King, his Crown and Dignity.

For selling counterfeit Dutch Guilders for good and true Guilders.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *I. B.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Yeoman, being a Person of evil Name, and Fame, and of dishonest Conversation, and devising and intending one *W. H.* unjustly and injuriously to deceive and defraud, on the eleventh Day of *May*, in the third Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, sixteen Pieces of false Coin (amounting together, to the Value of seventeen Shillings and Four-pence, of lawful Money of *Great Britain*, and no more) counterfeited to the Likeness and Similitude of a certain foreign Coin, made of Silver with an Alloy of Copper, and other base Metals, call'd *Dutch Guilder*, unlawfully, fraudulently, and deceitfully did utter, and sell

to the said *W. H.* for the Sum of twenty-six Shillings and Eight-pence, of lawful Money of *Great-Britain*, for, and as true and good Pieces of foreign Coin, call'd *Dutch* Guilders, each Guilder of the Value of Twenty-pence of lawful Money of *Great Britain*; (he the said *I. B.* then and there well knowing the said Pieces of Coin, so as aforesaid, by him uttered and sold, to have been false and counterfeit) to the great Damage and Deceit of him the said *W. H.* and against the Peace of our said Lord the King, his Crown and Dignity.

For pledging a Brass Chain colour'd with Gold, for, and as pure Gold.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of Saint *Sepulchre*, in the County of *Middlesex*, Widow, being a Person of evil Name and Fame, and dishonest Conversation, and devising and intending to deceive and defraud one *C. D.* of his Monies, on the ninth Day of *October*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. craftily and decietfully did offer, and propose to the said *C.* to borrow of him the said *C.* the Sum of five Pounds, and that for securing the Repayment of the said Sum of five Pounds and Interest, she the said *A.* would leave a Pledge of a Gold Chain with a Gold Locket, with the said *C.* and she the said *A.* in farther Prosecution of her Devices and Intentions aforesaid, did then and there give and deliver unto the said *C.* a Gold Locket, together

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with a Brass Chain, which same Chain was coloured with certain Materials, producing the Colour of Gold, and not exceeding in the whole the Value of fifteen Shillings; and then and there fraudulently and deceitfully did pretend and affirm to the said C. that the said Locket and Chain were pure Gold, and were worth five Pounds; (she the said A. then and there well knowing the said Chain to be Brass, coloured with certain Materials producing the Colour of Gold; and that the said Locket and Chain did not exceed the Value of fifteen Shillings in the whole :) And she the said A. under the false Pretences aforesaid, and by pledging the said Locket and Chain to the said C. for and as a Gold Chain and a Gold Locket, of the Value of five Pounds, then and there fraudulently and unjustly did obtain, acquire, and get to herself, of and from the said C. the Sum of five Pounds of lawful Money of *Great Britain*. And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said A. B. the said C. D. of the said Sum of five Pounds, in Manner aforesaid, fraudulently and deceitfully, did deceive and deceive and defraud, to the great Damage of the said C. to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For uttering a counterfeit Half-Guinea.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That G. H. late of the Parish of Saint Andrew, Holborn, in the County of *Middlesex*, Labourer, and B. H. late of the same Place, Labourer being Persons of evil Name and Fame, and of dishonest

dishonest Conversation, on the fifth Day of *August*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great-Britain*, &c. one Piece of false Money made of base Metals, and coloured with a certain Wash, producing the Colour of Gold, to the Likeness and Similitude of a Piece of good, lawful and current Gold Money and Coin of this Realm call'd a Half-guinea, unlawfully unjustly, and deceitfully did utter and pay to one *J.W.* for, and as a Piece of good and lawful Gold Money and Coin of this Realm, call'd a Half-guinea, (they the said *G.H.* and *B.H.* then, and there well knowing, and each of them well knowing the said Piece to have been false and counterfeit, as aforesaid) to the great Damage of the said *J.W.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

*For Uttering a counterfeit Sixpence,
and having another found in his
Custody.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A.M.* late of the Parish of *St. Ann*, in the County of *Middlesex*, Labourer, being a Person, of evil Name and Fame, and dishonest Conversation, on the twenty-first Day of *April*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second King of *Great-Britain*, &c. at the Parish aforesaid, in the County aforesaid, one Piece of false Money, made of certain mix'd base Metals, counterfeited to
the

the Likeness and Similitude of a Piece of good, lawful, and current Money and Coin of this Realm, called a Sixpence, unlawfully, unjustly, and deceitfully did utter and pay to one *E.C.* for, and as a Piece of good and lawful Money and Coin of this Realm, called a Sixpence (he the said *A.M.* then and there well knowing the said Piece to have been false and counterfeit as aforesaid,) to the great Damage of the said *E.C.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A.M.* on the said twenty-first Day of *April*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully had in the Custody and Possession of him the said *A.M.* one other Piece of false Money, made of mix'd base Metals, counterfeited to the Likeness and Similitude of a Piece of good, lawful, and current, Money and Coin of this Realm, called a Sixpence, (he the said *A.M.* then and there well knowing the said last mentioned Piece, to have been false and counterfeit as aforesaid) with an Intent to utter and pay the said last-mention'd Piece of false and counterfeit Money, to one of the Subjects of our said Lord the King, in Contempt of our said Lord the King, and his Laws; to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King his Crown and Dignity.

For

*For causing and procuring Guineas filed
and diminished, to be uttered as
good Guineas.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present That *William Lawson*, late of the Parish of *St. Mary Stratford, Bow*, in the County of *Middlesex*, Yeoman, being a Person of evil Name and Fame, and of dishonest Conversation, on the second Day of *June*, in the third Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did unlawfully and deceitfully, and with an Intent to defraud one *Robert Adams*, utter and expose, and cause and procure to be uttered and exposed, to the said *Robert Adams*, nine Pieces of Gold, for and as good and true Guineas of the proper Money of this Realm, notwithstanding none of the said nine Pieces of Gold, at the said Time, when they were so uttered and exposed, and caused and procured to be uttered and exposed, were good and true Guineas, of the proper Money of this Realm; but each of them had been unlawfully filed, and by such Filing diminished, and rendered defective of their Weight, which before such Filing they had, being before such Filing good and true Guineas, of the proper Money of this Realm, he the said *William Lawson*, at the Time he so uttered and exposed, and caused and procured to be uttered and exposed, the said nine Pieces of Gold as aforesaid, then and there well knowing, that none of them were good and true Guineas, but that each of them had been so as aforesaid filed,
diminished,

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diminished, and rendered defective of their Weight, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Mr. Serj. Hawkins's Opinion. *First, That the Offence is indictable.*

Secondly, That if A. deliver such Guineas to B. to get changed, A. is indictable, and all other Persons that are privy to, and acting therein, altho' the Guineas be carried by B. in their Absence, to be changed, if it be by their Procurement.

Thirdly, That where the Guineas are delivered by A. to B. to get changed in one County, and B. utters them in another, in such Case A. must be indicted in the County, where the uttering was by B. But for more of this Matter see hereafter under the Head Treason.

For obtaining a Note into his Hand, under Pretence of inspecting the same, and tearing and cancelling it.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That Robert Kingsley, late of the Parish of St. Mary le Bone, in the County of Middlesex, Labourer, being a Person of ill Name and Fame, and of dishonest Conversation, on the twentieth Day of August, in the fourth Year of the Reign of our Sovereign Lord George the Second, King of Great Britain, &c. at the Parish aforesaid, in the County aforesaid, falsely, fraudulently and deceitfully, and by false Arts, Colours and Pretences, did obtain, acquire, and get into his hands and Possession,

Possession, of and from one *Henry Williams*, a certain promissory Note, signed with the proper Hand-writing of him the said *Robert Kingsley*, bearing Date the tenth Day of *July* then before, by which said Note the said *Robert Kingsley* promised to pay to the said *Henry Williams*, or his Order, the Sum of ten Pounds, one Month after the Date of the same Note, for Value received by him the said *Robert Kingsley* (to wit) under Colour and Pretence, that he the said *Robert Kingsley* would inspect the said Note, and then and there immediately re-deliver the same Note to him the said *Henry Williams*; and that he the said *Robert Kingsley* afterwards, to wit, the said twentieth Day of *August*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, fraudulently and unlawfully did cancel, tear and destroy the said Note (the said Sum of ten Pounds, in the said Note mentioned, or any Part thereof then being unpaid) with an Intent to deceive and defraud the said *Henry Williams* of the Monies due and payable by Virtue of the same Note, to the great Damage of the said *Henry Williams*, and against the Peace of our said Lord the King, his Crown and Dignity.

For a Fraud in Indorsing a Note after Payment.

Kent. **T**HE Jurors for our Lord the King upon their Oath present, That *George Jones*, of *Bromley*, in the County of *Kent*, Silk-Mercer, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and five (to wit) on the eighteenth Day of *September*, in the Year of our Lord One thousand seven

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ven hundred and thirty three, at *Rochester*, in the said County of *Kent*, made a certain Note in Writing, subscribed with his own Hand, commonly called a promissory Note, bearing Date on the same Day and Year, by which Note the said *George* promised to pay to one *James How*, or his Order, ten Pounds, fourteen Days after the Date of the said Note, for Value received, by the said *George*, by Reason of which, and by Force of the Statute in that Case lately made and provided, the said *George* became liable to pay to the said *James*, or his Order, the said ten Pounds, according to the Tenor of the said Note; and the said Sum of Money being unpaid, the said *James How*; afterwards (to wit) on the twentieth Day of *November*, in the said Year of our Lord One thousand seven hundred and thirty three, at *Rochester* aforesaid, in the said County of *Kent*, falsely and fraudulently affirmed to the said *George Jones*, that the said Note was mislaid, and could not be found by him the said *James How*; upon which false and fraudulent Affirmation of the said *James*, he the said *George* then and there paid to the said *James* the said ten Pounds, in full Satisfaction and Discharge of the said Note, and the said Note remaining in the Hand and Possession of the said *James*, he the said *James How*, late of *Rochester* aforesaid, in the said County of *Kent*, Silversmith, contriving, and fraudulently and wickedly intending to injure the said *George Jones*, and to subject him to the Payment of the Contents of the said Note, notwithstanding his Payment of the said ten Pounds to the said *James* as aforesaid, afterwards, to wit, on the first Day of *January*, in the Year of our Lord One thousand seven hundred and thirty four, and in the eighth Year

Year of the Reign of our Sovereign Lord George the Second, King of Great Britain, &c. at *Rochester* aforesaid, in the County aforesaid, falsely and fraudulently, by an Indorsement on the said Note, subscribed with the proper Hand Writing of him the said *James How*, ordered the Contents of the said Note to be paid to one *Edward Burford*, and then and there delivered the said Note so indorsed by him as aforesaid, unto the said *Edward Burford*, and thereby, and by Force of the said Statute in that Case lately made and provided, the said *George Jones* became liable, to pay the said *Edward Burford* the said ten Pounds mentioned in the said Note, and being so liable, he the said *George Jones*, afterwards, to wit, on the third Day of *January*, in the Year last above-mentioned, at *Rochester* aforesaid, in the County aforesaid, paid to the said *Edward Burford* the said ten Pounds, mentioned in the said Note, to the great Damage of the said *George Jones*, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against

Against a Pensioner of Chelsea-College, for defrauding the King of Money, by procuring himself to be admitted an Out-Pensioner of the same College, as of another Regiment, and under Pretence that he was not otherwise provided for by the Government.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *William Clarke*, late of the Parish of *Chelsea*, in the County of *Middlesex*, Labourer, on the fifteenth Day of *June*, in the first Year of the Reign of our late Sovereign Lord King *George the First*, of *Great Britain &c.* at the Parish of *Chelsea*, in the said County of *Middlesex*, was admitted an Out-Pensioner of the Royal Hospital at *Chelsea*, from the Regiment of Foot then Commanded by *Joseph Sabine*, Esq; by Reason of his Service as a Soldier in the said Regiment, and the said *William Clarke* did continue such Pensioner, from the the said fifteenth Day of *June*, in the Year aforesaid, until the twenty-fourth Day of *December*, in the eighth Year of the Reign of our Sovereign Lord *George the Second* now King of *Great Britain, &c.* during which Time, he the said *William Clarke*, at the Parish aforesaid, in the County aforesaid, did receive of and from the Pay-Master of the said Hospital, a Pension of five Pence by the Day; And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *William Clarke* being a Person
of

of ill Name and Fame, and of dishonest Conversation, and devising and intending fraudulently and unjustly to obtain and acquire to himself diverse Sums of Money of and from the Pay-Master of the said Hospital, and to defraud our said now Lord the King of diverse Sums of Money, afterwards, to wit, on the third Day of *December*, in the third Year of the Reign of our said now Lord the King, at the Parish aforesaid, in the County aforesaid, unlawfully, fraudulently, and deceitfully did cause and procure himself to be admitted an Out-Pensioner of the said Hospital, as from the first Regiment of Foot Guards, under Pretence of his Service as a Soldier in the same Regiment, and also under Pretence that he the said *William Clarke* was not otherwise provided for by the Government; and the said *William Clarke* did continue such Pensioner as from the said first Regiment of Foot Guards, from the said third Day of *December*, in the Year last above-mentioned, until the twenty-fourth Day of *December*, in the seventh Year of the Reign of our said now Lord the King, to wit, at the Parish aforesaid, in the County aforesaid, and the said *William Clarke* the better to perfect his said wicked Devices and Intentions, on the twenty-fourth Day of *July*, in the said eighth Year of the Reign of our said now Lord the King, and diverse other Days and Times, during the Time last above-mentioned, at the Parish aforesaid, in the County aforesaid, falsely and wickedly did depose and swear, upon his corporal Oath, before *Thomas Cotton*, Esq; then and yet one of the Justices of our said now Lord the King, assigned to keep the Peace in the said County, of *Middlesex*, that he the said *William Clarke* was a Pensioner of *Chelsea-College*, meaning the

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said

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said Royal Hospital of *Chelsea*, from the first Regiment of Foot Guards, and that he the said *William Clarke* was not otherwise provided for by the Government; whereas in Truth and in Fact the said *William Clarke*, then and during the whole Time last above-mentioned, to wit, from the said third Day of *December*, in the said third Year of the Reign of our said now Lord the King, until the said twenty fourth Day of *December*, in the said seventh Year of the Reign of the same King, was otherwise provided for by the Government, than as a Pensioner from the first Regiment of Foot Guards, that is to say, he the said *William Clarke* during the whole Time last above mentioned was provided for, and did receive a Pension of five Pence by the Day, as a Pensioner of the said College, or Royal Hospital of *Chelsea*, from *Sabine's* Regiment, in Manner and Form as is above specified. And the Jurors aforesaid, upon thir Oath aforesaid, do further present, That the said *William Clarke* at diverse Days and Times, between the said third Day of *December*, in the said third Year of the Reign of our said now Lord the King, and the said twenty-fourth Day of *December*, in the said eighth Year of the Reign of the same King, at the Parish aforesaid, in the County aforesaid, under the false Pretence aforesaid, did fraudulently receive and obtain of and from the Pay-Master of the said Hospital, diverse Sums of Money, amounting in the whole to the Sum of thirty Pounds seventeen Shillings and eleven Pence, as a Pensioner from the said first Regiment of Foot Guards; and so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *William Clarke* in Manner and Form aforesaid, did fraudulently and deceitfully deceive and defraud our said now Lord the King of the Sum of thirty Pounds,

Pounds, seventeen Shillings and eleven Pence, to the great Damage and Deceit of our said now Lord the King, to the evil Example of all others in the like Case offending, and against the Peace of our said now Lord the King, his Crown and Dignity.

For a Misdemeanor in producing and publishing a forged Writing, purporting to be the Request of a Prosecutor to the Attorney-General, to obtain a Noli Prosequi upon an Indictment for an Assault, and by Colour of such Writing obtaining thereof.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That formerly, to wit, on *Tuesday* next after three Weeks of the *Holy Trinity*, in the sixth Year of the Reign of our Sovereign Lord George the Second, now King of Great Britain, &c. before our said Lord the King himself at *Westminster*, in the County of *Middlesex*, by the Oath of *Adam Brown, Henry Gibbs, John Gay, Moses Tucker, Thomas Lamb Peake, William Watson, Esqrs. Jameson Toft, Edward Hughes, John Paddon, James Roxborough, John Hampton, William Simmonds, John Hayskam, Simon Adolphus Sloper, Robert Simpson, Henry Jaffrays, Peter Griffin, and Joseph Lewendon*, good and lawful Men of the County of *Middlesex* aforesaid, then and there impannelled, sworn and charged, to inquire for our said Lord the King,

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For the Body of the County aforesaid: It was presented in Manner and Form following, that is to say, *Middlesex*. The Jurors for our Lord the King upon their Oath present, That *John Mustoe*, late of the Parish of *St. Martin* in the Fields, in the County of *Middlesex*, Vintner, and *Peter Drawback*, late of the same, Broker, on the tenth of *February*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish of *St. Paul*, *Covent Garden*, in the County of *Middlesex* aforesaid, in and upon one *Isaac Midnight*, Gent. in the Peace of God and our said Lord the King, then and there being, did make an Assault, and him the said *Isaac Midnight*, then and there did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said *Isaac Midnight*, then and there did, to the great Damage of the said *Isaac Midnight*, and against the Peace of our said Lord the King, his Crown and Dignity. As by the said Indictment, in the said Court of our said Lord the King at *Westminster*, remaining filed of Record plainly doth appear; and the Jurors aforesaid, now here sworn and charged to enquire for our said Lord the King, for the Body of the County of *Middlesex* aforesaid, upon their Oath aforesaid, do farther present, That *John Wilson*, late of the Parish of *St. Clement Danes*, in the said County of *Middlesex*, Dyer, *William Robertson*, late of the said Parish of *St. Clement Danes*, in the County aforesaid, Blacksmith, and *Anthony Forward*, late of the same Parish and County, Gent. on the twenty-ninth Day of *September*, in the seventh Year of the Reign of our said Lord the King, contriving, intending, and among themselves

selves conspiring and combining, as much as in them was, the due Course of Law, unlawfully and unjustly in that Behalf to hinder and pervert, and a certain Warrant of *R. R. Esq;* then and yet being Attorney-General of our said Lord the King, by unlawful and by false and most wicked Ways and Means, to obtain and procure for the Entry of a *Noli Prosequi*, upon the Indictment aforesaid, and for Staying all Proceedings thereupon, they the said *John Wilson, William Robertson, and Anthony Forward*, afterwards, to wit, on the said twenty-ninth Day of *September*, in the said seventh Year of the Reign of our said Lord the King, at the said Parish of *St. Clement Danes*, in the County of *Middlesex* aforesaid, according to the Conspiracy, Combination, and Agreement between them as aforesaid had, before the said *R. R. Esq;* then and there being Attorney-General of our said Lord the King, did bring and produce, and every of them did bring and produce a certain false forged and counterfeit Writing, (by a certain ill-disposed Person, to the said Jurors now here, as yet unknown, falsely forged, made and counterfeited) purporting to be signed in the Name and by the said *Isaac Midnight*, the Prosecutor of the said Indictment, and to bear Date the twenty-eighth Day of *September*, in the said seventh Year of the Reign of our said Lord the King, and to contain the Desire of him the said *Isaac Midnight* to the said Attorney-General, to sign a Warrant of *Noli Prosequi*, for to stay all Proceedings upon the said Indictment, which said false, forged, and counterfeit Writing, in these Words and Figures, is as follows : (to wit) “ Where-
“ as *John Mistor* and *Peter Drawback* do stand
“ indicted in his Majesty’s Court of *King’s-Bench*,

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“ *Westminster*, for making an Assault upon me,
 “ *Isaac Midnight*, the tenth Day of *February* last
 “ past, such Indictment being found in *Trinity-*
 “ *Term* last in the said Court; now I the said
 “ *Isaac Midnight*, the Prosecution of such Indict-
 “ ment, do hereby humbly desire, with all due
 “ Submission to his present Majesty’s Attorney-
 “ General, to sign a Warrant of *Noli Prosequi*,
 “ to stay all Proceedings on such Indictment,
 “ as Witness my Hand, dated the twenty-
 “ eighth Day of *September*, in the Seventh
 “ Year of the Reign of our present Sovereign
 “ Lord King *George* the Second, in the Year
 “ of our Lord, One thousand seven hundred
 “ and thirty four. *Isaac Midnight*. Signed un-
 “ der the Hand Writing of the said *Isaac Mid-*
 “ *night* in the Presence of *Jonas Diffney*.” And
 that the said *John Wilson*, *William Robertson*,
 and *Anthony Forward*, afterwards, to wit, on
 the said twenty-ninth Day of *September*, in the
 said seventh Year of the Reign of our said
 Lord the King, with Force and Arms, at the
 Parish of *St. Clement Danes* aforesaid, in the
 County aforesaid, before the said *R. R. Esq;*
 then and there being Attorney-General of our
 said Lord the King as aforesaid, falsely, know-
 ingly, subtilly, and deceitfully the said false, forged,
 and counterfeit Writing did publish and declare,
 and every one of them did publish and declare
 as a true Writing, subscribed and signed by
 the said *Isaac Midnight*, with Intention as afore-
 said, such Warrant of *Noli Prosequi*, of the
 said Attorney-General of our said Lord the
 King, to have and obtain, (they the said *John*
Wilson, *William Robertson*, and *Anthony Forward*,
 then and there well knowing, and every one
 of them well knowing the said Writing to be
 falsely

falsely made, forged, and counterfeited as afore-
 said.) And the Jurors aforesaid, now here sworn
 and charged to inquire for our said Lord the
 King, for the Body of the said County of *Middlesex*
 as aforesaid, upon their Oath aforesaid,
 do further present, That the said *John Wilson*,
William Robertson, and *Anthony Forward*, in fur-
 ther Prosecution of their wicked Contrivance and
 Intention, and according to the Conspiracy, Com-
 bination and Agreement aforesaid, among them-
 selves as aforesaid had, and their evil Purpose
 and Design to compleat and render effectual,
 on the said twenty-ninth Day of *September*, in
 the said seventh Year of the Reign of our said
 Lord the King, at the Parish of *St. Clement*
Danes aforesaid, in the said County of *Middle-*
sex, before the said Attorney-General of our
 said Lord the King, did produce, and every
 one of them did produce the said false, forged,
 and counterfeit Writing, annexed to a certain
Affidavit in writing, purporting to be an *Affi-*
davit under the Name of one *John Jones*, sub-
 scribed and sworn, and supposed to be sworn
 before Sir *E. P. Knt.* one of the Justices of
 our said Lord the King, assigned to hold Pleas
 before the King himself, the Tenor of which
 said *Affidavit*, is in the Words and Figures fol-
 lowing: "*John Jones* of *London*, Mariner,
 "maketh Oath, that he this Deponent was
 "present at the signing of the Paper Writing
 "hereunto annexed, which imports a Desire of
 "a *Noli Prosequi*, and that such Writing so
 "signed, is of the proper Hand-writing of
 "*Isaac Midnight*, who subscribed the same, for
 "that this Deponent knows him very well.
 "*John Jones*, Swore at *Serjeants-Inn*, the twenty-
 "ninth of *September*, One thousand seven hun-
 "dred

“dred and thirty-four, before *E. P.*” Whereas in Truth and in Fact, the Writing in the said *Affidavit* mentioned, was not, nor is the proper Hand-writing of him the said *Isaac Midnight*, in the same *Affidavit* likewise named, nor by him subscribed. (They the said *John Wilson*, *William Robertson*, and *Anthony Forward*, then and there well knowing, and every one of them then and there well knowing the Writing in the said *Affidavit* mentioned, and to the same *Affidavit* annexed, not to be the proper Hand-writing of the said *Isaac Midnight*, in the said *Affidavit* named, nor by him subscribed) but then and there well knowing, and every one of them well knowing the Matters in the same *Affidavit* contained, to be false and fictitious, and they the said *John Wilson*, *William Robertson*, and *Anthony Forward*, by Colour and Pretence, as well of the said false, forged and counterfeited Writing, as of the aforesaid *Affidavit* thereunto annexed, afterwards, to wit, on the said twenty-ninth Day of *September*, in the said seventh Year of the Reign of our said Lord the King, at the said Parish of *St Clement Danes*, in the County of *Middlesex* aforesaid, falsely, subtilly, knowingly, and deceitfully into their Hands did obtain, and have a certain Warrant of *Noli Prosequi*, of and from the said *R. R.* then and there as aforesaid, being Attorney-General of our said Lord the King, for entring and causing to be entered a *Noli Prosequi* upon the Indictment aforesaid, and for staying all Proceedings thereupon, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For defrauding a Person of Money by counterfeiting the Post Mark on a Piece of Paper folded up like a Letter.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present. That *S. L.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Labourer, being a Person of evil Name and Fame, and dishonest Conversation, and devising and intending to deceive and defraud the Leige Subjects of our said Lord the King of their Monies, by Colour and Pretext of the Duties payable to our said Lord the King for Postage and Conveyance of Letters, on the first Day of *May*, in the sixth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, in and upon a certain Piece of Paper, folded up and sealed in the Form of a Letter, directed for *Mr. S. R.* to be left at *Mr. H.* at the *Bear, &c. London*, and inclosing another Piece of Paper, supposing to be a Letter directed for *Mr L. R. London*, fraudulently and deceitfully did counterfeit and resemble, and cause to be counterfeited and resembled the Impression of the Mark or Stamp used by the Deputy Post-Master of the City of *Exeter*, to mark Letters sent by the Post from the said City of *Exeter* to the City of *London*, to wit, the Word *Exeter*, and also the Impression of the Mark or Stamp used by the Post Master General at the City of *London*, to stamp Letters, brought by the Post from other Post-Towns to the said City of

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of *London*, which said Mark denotes the Day and Month when such Letters are brought to the said last mentioned City; and that the said *S. L.* by Colour of the said counterfeit Impressions, and under Pretence that he the said *S. L.* had paid the Sum of eight Pence for the Postage of the said Letter, did then and there, to wit, the said first Day of *May*, in the Year aforesaid, at the said Parish of *St. James, Clerkenwell*, in the County of *Middlesex* aforesaid, fraudulently and deceitfully demand, receive, and have of *J. H.* for and on Behalf of the said *L. R.* the Sum of eight Pence of lawful Money of *Great Britain*, and so the said *S. L.* him the said *L. R.* of the said Sum of eight Pence, then and there fraudulently and deceitfully did deceive and defraud, to the great Damage of the said *L. R.* and against the Peace of our said Lord the King, his Crown and Dignity.

*For defrauding a Person of Money,
under Pretence of procuring a Li-
cence to sell Ale.*

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *E. N.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Labourer, being a Person of ill Name and Fame, and of dishonest Conversation, on the ninth Day of *October*, in the fifth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, falsely, fraudulently, and deceitfully did pretend and assert to one *Elizabeth Jones* Wilow, that he the said *E. N.* would procure a certain Licence,
under

under the Hands of two Justices of our said Lord the King, assigned to keep the Peace of our said Lord the King, in the County aforesaid, for the said *Elizabeth Jones* to keep an Ale-house within the Parish aforesaid; and the said *E. N.* under the Colour and Pretence aforesaid, then and there fraudulently and unlawfully did obtain, acquire, and get into the Hands and Possession of him the said *E. N.* of and from the said *Elizabeth Jones*, the Sum of six Shillings of lawful Money of Great Britain, of the Monies of the said *Elizabeth Jones*; whereas in Truth and in Fact, the said *E. N.* never did procure such Licence for the said *Elizabeth Jones* and so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *E. N.* the said *Elizabeth Jones* of the said Sum of six Shillings, in Manner and Form aforesaid, then and there fraudulently and wickedly did deceive and defraud, to the great Damage of the said *Elizabeth Jones*, and against the Peace of our said Lord the King, his Crown and Dignity.

Deciet and Cousenage are Offences at Common Law, and may in general be described to be deceitful Practices, in defrauding or endeavouring to defraud another of his known Right, by Means of some artful Device, contrary to the plain Rules of common Honesty. (A mere Lye is not punishable.) The Punishment at Common Law for Fraud or Cheating, is Fine and Imprisonment; and sometimes Pillory, as for cheating with false Dice, &c. uttering counterfeited Money, &c.

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ch. 2. p. 188.
2. Cro. 497
498. 3 Cro.
235. 2 Roll.
Abr. 78.

cribed to be deceitful Practices, in defrauding or endeavouring to defraud another of his known Right, by Means of some artful Device, contrary to the plain Rules of common Honesty. (A mere Lye is not punishable.) The Punishment at Common Law for Fraud or Cheating, is Fine and Imprisonment; and sometimes Pillory, as for cheating with false Dice, &c. uttering counterfeited Money, &c.

E S C A P E.

E S C A P E.

Against a Constable negligently permitting a Man to Escape that was committed for a Rape.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the seventeenth Day of *June*, in the seventh Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. one *John Sterling*, at the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, was brought by one *John Baynham*, then being one of the Constables of the same Parish, before *Anthony Chamberlain*, Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County; and the said *John Sterling* then and there was charged by one *Durance Tyack*, Spinster upon the Oath of the said *Durance*, with having had the carnal Knowledge of her Body against her Will, and the said *John Sterling* then and there was examined before the said *Anthony Chamberlain*, the Justice aforesaid, of the aforesaid Offence to him as above charged; upon which the said *Anthony Chamberlain*, Justice of the Peace aforesaid, did make a certain Warrant under his Hand and Seal, in due Form of Law, bearing Date the said seventeenth Day of *June*, in the Year aforesaid, and in the Year of our Lord One thousand seven hundred and thirty-three, directed to the Keeper of *Newgate* or his Deputy, commanding him the said Keeper or his Deputy, that he should receive into his Custody the said *John Sterling* brought before him, and charged upon the Oath
of

of the said *Durance Tyack*, with the Premises above specified, and the said Justice by the aforesaid Warrant did command the said Keeper of *Newgate* or his Deputy, to safely keep him there until he by due Course of Law should be discharged; which same Warrant afterward, to wit, on the said seventeenth. Day of *June*, in the said seventh Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County aforesaid, was delivered to the said *John Baynham*, then being one of the Constables of the same Parish as aforesaid, and then and there having the said *John Sterling* under his Custody for the Cause aforesaid, and the said *John Baynham* then and there was required and commanded by the said *Anthony Chamberlain*, the aforesaid Justice, immediately to convey the said *John Sterling* to the said Gaol of *Newgate*, and to deliver him the said *John Sterling* to the Keeper of the said Gaol or his Deputy, together with the Warrant aforesaid. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *John Baynham*, late of the Parish aforesaid, in the County aforesaid, Baker, afterward, to wit, on the said seventeenth Day of *June*, in the said seventh Year of the Reign of our said Lord the King, then as aforesaid being one of the Constables of the said Parish, and then having the said *John Sterling* in his Custody for the Cause aforesaid, at the Parish aforesaid, in the County aforesaid, the said *John Sterling* out of the Custody of him the said *John Baynham*, unlawfully and negligently did permit to escape, and to go at large were he would, to the great Hinderance of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Constable for negligently permitting a Man to Escape, who was arrested by him for a Misdemeanor.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That on the thirtieth Day of *January*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish of *Pinner*, in the County of *Middlesex*, one *Samuel Carter* came before *A. K. Esq;* then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies, Trespasses, and other Misdemeanors, committed in the same County; and the said *Samuel Carter* did, then and there, on his Oath, before the same Justice, charge, accuse, and give Information against one *William Martin*, of the Parish aforesaid, in the County aforesaid, Yeoman, for a certain Misdemeanor, in taking Fish out of the Pond of the Most Noble *James*, Duke of *Chandos*, at *Edgware*, in the said County of *Middlesex*; whereupon he the said *A. K.* the Justice aforesaid, did then and there, (to wit) at the Parish of *Pinner* aforesaid, in the County aforesaid, make a certain Warrant, under his Hand and Seal, in due Form of Law directed to the Constable or Headborough of the Parish of *Pinner* aforesaid, in the County aforesaid thereby requiring them to take the Body of the said *William Martin*, and bring him before the said *A. K.* the Justice aforesaid, to answer to such Matters and Things as should be alledged against him, touching the said Misdemeanor; which said Warrant, afterwards, to wit, on the same Day and Year abovementioned, at *Edgware* aforesaid

aforesaid, in the County aforesaid, was delivered to one *Thomas Weedon*, then being one of the Constables of the said Parish of *Pinner*, in due Form of Law, to be executed; by Virtue of which said Warrant the said *Thomas Weedon*, afterwards, to wit, on the said thirtieth Day of *January*, in the Year aforesaid, at the abovesaid Parish of *Pinner*, in the said County, did take and arrest the Body of the said *William Martin*, and him the said *William Martin* in his Custody for the Cause aforesaid, had: Nevertheless, the said *Thomas Weedon*, of the said Parish of *Pinner*, in the County aforesaid, Yeoman, afterward to wit, on the said thirtieth Day of *January*, in the Year aforesaid, the Duty of his Office in that Part not regarding, at the Parish of *Pinner* aforesaid, in the County aforesaid, unlawfully and negligently did permit the said *William Martin* to escape, and go at large, out of the Custody of him the said *Thomas Weedon*, to the great Hinderance of Justice, in Contempt of our said Lord the King, and his Laws, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Gaoler for negligently permitting a Prisoner to escape out of his Custody, brought by Habeas Corpus from another Gaol.

Lincolnshire. **T**HE Jurors for our Lord the King upon their Oath present, That formerly (to wit) on the twelfth Teste. of Day of *February*, in the third Year the Writ. of the Reign of our Sovereign Lord *George* the

Second

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Second, King of *Great Britain*, &c. our said Lord the King commanded the Sheriff of his County of *Lincoln*, by his Writ issued out of the Court of our said Lord the King, before the King himself, at *Westminster*, in the County of *Middlesex*, in these Words, [Recite the

Here recite the Writ of *Habeas Corpus ad recipiendum*. *Writ, and make them agree,] Bellamy.* Which said Writ, afterwards, to wit, on the ninth Day of *May*, in the Year aforesaid, at *Lincoln* aforesaid, in the County aforesaid, was delivered to *A. B.* then Sheriff of the said County of *Lincoln*, by *V. K. Esq;* then Sheriff of *Bucks* aforesaid, together with the Body of the said *A. Q.* and the Cause of the taking and detaining of the said *A. Q.* according to the Direction and Command of a Writ of our said Lord the King, of *Habeas Corpus*, then lately before issued out of the Court aforesaid, to the same

Sheriff of *Bucks*. And the said Sheriff of *Bucks* did then and there certify, to the said Sheriff of *Lincoln*, that then lately before, to wit, on the ninth Day of *February*, in the Year aforesaid, *Thomas Chapman*, Esq; then one of the Justices of our said Lord the King, assigned to keep the Peace in the said County of *Bucks*, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, did make a certain Warrant, under his Hand and Seal, bearing Date the same Day and Year directed to the Constable of *Newport-Pagnell*, and also to the Gaoler of our said Lord the King at *Aylesbury*, in the said County of *Bucks* or his Deputy, and thereby recited that when the said *A. Q.* was brought before the said Justice, for Suspicion of feloniously stealing of a black Mare from Mr. *Wright* of *Litchfield*, in the

The Return of the Sheriff of *Bucks* to the Sheriff of *Lincoln*, on the Back of the *Habeas Corpus ad recipiendum*.

County

County of *Stafford*, which he offered to sell at *Newport-Pagnell* aforesaid ; and when the said *Mr. Wright* had described and owned the said Mare, the said Justice, by his Warrant aforesaid, did require the said Constable to convey the said *A. Q.* to the Gaol of our said Lord the King at *Aylesbury*, and there to deliver him to the Keeper of the Gaol aforesaid, or his Deputy, who was thereby required to keep him in safe Custody, until he should from thence be delivered by due Course of Law; which said *A. Q.* to the said Sheriff of *Lincoln*, in Form aforesaid being delivered (to wit) the said ninth Day of *May*, in the Year aforesaid, by the same Sheriff, by Virtue of the Writ of our said Lord the King first above recited, was carried to the Gaol of our said Lord the King, at *Lincoln* aforesaid, there to be kept, until he should be delivered, according to the Laws and Customs of *England* : And that one *John Spencer*, late of *Lincoln* aforesaid, in the said County of *Lincoln*, Yeoman, afterward, to wit, on the twelfth Day of *May*, in the third Year of the Reign of our said Lord the King, then being Keeper of the said Gaol, and having the said *A. Q.* in the Gaol aforesaid, for the Cause aforesaid, afterward, to wit. the same Day and Year last abovementioned, at *Lincoln* aforesaid, the said *A. Q.* unlawfully and negligently did permit to go out of the said Gaol, and at large to escape where he would, in great Obstruction of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

A negligent Escape is, when one is Taken delat Ley: arrested, and afterwards escapes against the Will of him that did arrest him, and is not

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freshly pursued, and taken before the Pursuer loses Sight of him.

If a Felon be arrested by the Constable, and brought to the Gaol in the County, and the Gaoler will not receive him, and the Constable lets him go, and the Gaoler also, and so he escapes, this is an Escape in the Gaoler, for that in such Case the Gaoler is bound to receive him by the Hand of the Constable, without any Precept of the Justice of Peace. But otherwise it is, if a common Person arrest another upon Suspicion of Felony, there the Gaoler is not bound to receive him without a Precept of some Justice of the Peace.

One negligent Escape will not amount to a Forfeiture of the Gaoler's Office, as one voluntary one will; yet if a Gaoler suffer many negligent Escapes, it is said, that he puts it in the Power of the Court to oust him of his Office by it's Discretion.

And it seems, that by the Common Law, the Penalty for suffering the negligent Escape of a Person attainted, was of Course 100l. and for suffering such Escape of a Person indicted and not attainted was 5l. but if the Person escaping were neither attainted nor indicted, it seems, that it was left to the Discretion of the Court to assess such a reasonable Forfeiture as should seem proper; and if the Party had twice escaped, it seems, that the Penalties above-mentioned were of Course to be doubled.

Every Indictment for an Escape whether negligent or voluntary, must expressly shew, that the Party was actually in the Defendant's Custody for a Crime Action, or Commitment for it; and that it is not sufficient to say, that he was in the Defendant's Custody, and charged with such a Crime; for that

27 Aff. pl. 9.
Bro. Escape 22.
Fitz. Affise 247.

Salk. 272.
5 Mod. 414.
415.

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a Person in Custody may be so charged, and yet not be in Custody by Reason of such Charge: And it seems also, that every such Indictment must expressly shew, that the Prisoner went at large, which is most properly expressed by the Words did go at large. Also, it seems neces-

Bro. Esc. pe 52.
10 H. 7. 26.

sary to shew the Time when the Offence was committed, for which the Party was in

Contra 2 Leon:
66.

Custody, that it may appear, that it was prior to the Escape; also it seems clear, that every Indictment

Bro. Escape. 17
Cro. El. 752.

for a voluntary Escape must alledge, that the Defendant feloniously and voluntarily did permit A. B. to go at large, and must also shew the Species of the Crime, for which the Party was imprisoned; for it is not sufficient to say in general, that he was in Custody for Felony, &c.

Cro. El. 752.
Herley 73.
S. P. C. 95 A.
H. P. C. 110,
111. 206.
8 Ed. 4. 3. pl. 6.

for that no one can be punished in this Degree, but as involved in the Guilt of the Crime for which the Party was in his Custody, and therefore the particular Crime must be set forth, that it may appear, that the Principal is attainted for the very same Crime, if it were Felony, or that it was in Truth committed, if High Treason.

See hereafter Title Prison.

EXTORTION.

Against a Coroner, for Extortion.

Gloucestershire. **T**HE Jurors for our Lord the King upon their Oath present, That William Nicholls, late of the Parish of — in the County of Gloucester, Gent.

Q 2

on

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on the ninth of *December*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. then being one of the Coroners of our said Lord the King, for the said County of *Gloucester*, at the Parish aforesaid, in the County aforesaid, by Colour of his said Office, unlawfully, and unjustly did demand, extort, receive, and take of and from one *Richard Snape*, the Sum of thirty Shillings of lawful Money of *Great Britain*, for and as his Fee for executing and doing of his Office aforesaid (to wit) upon the View of the Body of one *James Clarke*, late of *Stow* in the *Wold*, in the said County of *Gloucester*, Gilazier, who at the Parish aforesaid, in the County aforesaid, on the Day and Year above-mention'd, was slain by Misadventure, in Contempt of our said Lord the King, and his Laws, to the great Damage of the said *Richard Snape*, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 3. Ed. 1. c. 10. a Coroner is to take no Fee.

But by the Stat. 3. H. 7. c. 1. upon an Inquisition taken upon View of the Body murdered, he shall have thirteen Shillings and four Pence of the Goods of the Murderer, and if he hath nothing, of the Amercement of the Township for the Escape.

And by the Stat. 1. H. 8. c. 7. the Coroner shall have nothing where the Inquisition is taken upon View of one slain by Misadventure. Penalty forty Shillings.

Jurors of Assize, and Justice of the Peace within the County where any such Default of the Coroner

EXTORTION. 229

Coroner be, have Power and Authority to inquire thereof, and determine the same as well by Examination as Presentment.

Against the Servant of a Clerk of a Market for Extortion.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Edward Reffitt*, late of the Parish of *St. Mary Matfellow*, otherwise *Whitchappel*, in the County of *Middlesex*, Yeoman, on the fourteenth Day of *June*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, by Colour of being Servant and Agent to *Thomas Robe* and *Charles Peters*, Esquires, Clerk of the Market of the Household of our said Lord the King, unlawfully, unjustly, and extorsively did demand, receive, and have of one *William Cole*, the Sum of fourteen Pence of lawful Money of *Great Britain*, for and as a Fee for examining, marking, and sealing of five Quart Pots made of Pewter, seven Pint Pots made of Pewter, and two half Pint Pots made of Pewter; whereas in Truth and in Fact, there was then no such Fee due to the said *Thomas Robe* and *Charles Peters* the said Clerk of the Market of the Household of our said Lord the King, in that Behalf, to the great Damage and Oppression of the said *William Cole*, and against the Peace of our said Lord the King his Crown and Dignity.

*Against a Headborough for Extor-
tion.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *William Evans*. late of the Parish of *St. James, Clerkenwell* in the County of *Middlesex*, Tobacconist, on the first Day of *December*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. then being one of the Headboroughs of the same Parish, in the County aforesaid, at the Parish of *St. Martin in the Fields*, in the County aforesaid, by Colour of his said Office, unlawfully, unjustly, and extorsively did exact, extort, receive, and have of and from one *Elizabeth Jones*, Widow, the Sum of five Shillings of lawful Money of this Realm, for a pretended Fee of him the said *William Evans* for taking and arresting the said *Elizabeth Jones*, by Virtue of a Warrant of *Thomas Robe Esq;* (meaning *Thomas Robe*. Esq; one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies, Trespases, and other Misdeeds committed in the same County) and for the obtaining and discharging of the same Warrant as the said *William Evans* did then alledge; whereas in Truth and in Fact, no such Fee was then due to the said *William Evans* in that Behalf to the great Damage of the said *Elizabeth Jones*, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King his Crown and Dignity.

Against

EXTORTION. 231

*Against a Constable for extorting
Money of a Person apprehended
by him on a Bench Warrant, to
let her go without carrying her
before any Justice of the Peace.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. F.* late of the Parish of *St. Paul Covent-Garden*, in the County of *Middlesex*, Yeoman, on the fourth Day of *June*, in the eighth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. then being one of the Constables of the same Parish, at the Parish aforesaid, in the County aforesaid, did take and arrest one *N. L.* Spinster, by Colour of a certain Warrant, commonly called a Bench-Warrant, which he the said *A. F.* then and there had to apprehend the said *N. L.* to answer to a certain Trespass and Assault, whereof the said *N.* then stood indicted as the said *A. F.* then and there alledged and pretended, and the said *A. F.* her the said *N.* then and there had in his Custody, and that the said *A. F.* afterwards, to wit, the same Day and Year, at the Parish aforesaid, in the County aforesaid, unlawfully, corruptly, deceitfully and extorsively, for wicked Gain Sake, and contrary to the Duty of his Office, did extort, receive, and take of the said *N.* the Sum of five Shillings of lawful Money of *Great Britain*, for discharging the said *N.* out of the Custody of him the said *A. F.* without conveying her before any Justice of the Peace for the said County, to answer to the said Trespass and Assault, whereof she was supposed to stand indicted

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as aforesaid, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Tipstaff to a Judge of the King's Bench for Extortion.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *A. L.* late of the Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, Gent. on the second Day of *November*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, unlawfully, unjustly, and extorsively did exact and receive of and from one *R. H.* two Pieces of Gold Coin, of the proper Coin of this Kingdom called *Guineas*, of the Value of forty-two *Shillings*, under Colour and Pretence of being Tipstaff to the Right Honourable *Robert*, Lord *Raymond*, then Chief Justice of our said Lord the King, assigned to hold Pleas before the King himself, and under Colour and Pretence of a Fee due to him the said *A.* for not carrying the said *R.* to Prison, after he had taken and arrested him the said *R.* by Virtue of a Warrant, under the Hand and Seal of the said *Robert*, Lord *Raymond*, Chief Justice aforesaid, issued forth against the said *R. H.* to answer to an Indictment then before found against the said *R. H.* at the Session of the Peace held for the County aforesaid, for an Assault upon *A. A.* as the said *A. L.* then and there alledged to the said *R. H.* whereas in Truth and in Fact, no such Fee

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Fee was then due to the said *A. L.* in that Behalf, to the great Damage of the said *R. H.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Marshal's Court Officer for Extortion.

Middlesex. **T**HIE Jurors for our Lord the King upon their Oath present, That *A. T.* late of the Parish of *St. Giles* in the *Fields*, in the County of *Middlesex*, Yeoman, on the eleventh Day of *April* in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. (the said *A. T.* then being one of the Bearers of the Verges, of the Household of our said Lord the King, Officers and Ministers of the Court of our said Lord the King, of his Palace of *Westminster*) at the Parish aforesaid, in the County aforesaid, unlawfully, unjustly, and extorsively, and by Colour of his said Office, did extort, receive, and have of one *T. E.* the Sum of eighteen Shillings of lawful Money of *Great Britain*, for the Fee of him the said *A. T.* for keeping the said *T. E.* at the House of him the said *A. T.* situate in the Parish aforesaid, in the said County of *Middlesex*, and not conveying him the said *T. E.* to the Prison of our said Lord the King called the *Marshalsea*, in *Southwark*, in the County of *Surry*, after he the said *A. T.* had arrested the said *T. E.* by Virtue of a certain Writ of our said Lord the King, called a *Marshal's Court* Writ, issued out of the said Court of our said Lord the King, under the Seal

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of the same Court, bearing Date the tenth Day of the abovesaid Month of *April*, in the Year aforesaid, and returnable in the same Court, on the fourteenth Day of *April*, then next following, to answer *D. D.* of a Plea of Trespass on the Case, to his Damage ninety-nine Shillings, (as the said *A. Y.* then and there did alledge;) whereas in Truth and in Fact, no Fee whatever, to the said *A. Y.* in that Part then was due, to the great Damage of the said *T. E.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Extortion is an unlawful taking, by any Officer, of extraordinary Money, or other excessive Reward, by Colour of his Office, for the Execution of his Duty: Or it is the taking of Money
 10 Rep. 102. *from a Person, where none is due, or not so much, or before it is due.*

Where the Law will not suffer an
 1 Roll. Abr. 16. *Officer to take any Thing, a Promise to pay Money is void.*

Extortion at Common Law is punishable by Fine and Imprisonment; and by Statute,
 Stat. 3. E. 1. c. 30. *Officers of Justice, &c. guilty of Extortion, are to render treble Value.*

FORCIBLE ENTRY. 235

For a forcible Entry and Detainer, at Common Law.

*The Liberty of St.
Alban in the Coun-
ty of Hertford.*

THE Jurors for our Lord the King upon their Oath present, That *Thomas Jones*, late of the Parish of *East-Barnet*, within the Liberty of *St. Alban*, in the County of *Hertford*, Gentleman, and *Elizabeth Pickering*, late of the same, Spinster, together with diverse other Malefactors and Disturbers of the Peace of our said Lord the King (whose Names to the Jurors aforesaid are yet unknown) on the thirtieth Day of *June*, in the fifth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, within the Liberty aforesaid, in the County aforesaid, unlawfully and injuriously did enter into a certain Barn and a certain Orchard, then and there being in the Possession of one *George Abbot* (four Carts Load of Hay of the Value of ten Pounds, of the Goods and Chattles of the said *George Abbot*, then and there being in the same Barn) and that the said *Thomas Jones* and *Elizabeth Pickering*, together with the said other Malefactors, then and there, with Force and Arms, unlawfully and injuriously did expell, amove, and put out the said *George Abbot* from the Possession of the said Barn and Orchard, and the said *George Abbot* so as aforesaid expelled, amoved and put out from the Possession of the said Barn and Orchard, then and there, with Force and Arms, unlawfully and injuriously

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juriously did keep out, and still do keep out, and other Wrongs to the said *George Abbot* then and there did, to the great Damage of the said *George Abbot*, and against the Peace of our said Lord the King, his Crown and Dignity.

For a Forcible Entry and expelling out of Possession, at Common Law.

Middlesex. **T**HE Jurors for our said Lord the King upon their Oath present, That *Christopher Pennarad*, late of the Parish of *St. James*, within the Liberty of *St. Martin*, in the County of *Middlesex*, Yeoman, *Thomas Coggan*, late of the same, Apothecary, and diverse other Persons, to the Jurors aforesaid, as yet unknown, on the twenty-eighth Day of *August*, in the seventh Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, into one Shop, one Ware-house, and one Stable, being parcel of the Dwelling-house of *Lucy Hunter* Widow, there situate, unlawfully and injuriously did enter (the said Shop, Ware-house, and Stable, then and there being in the Possession of *Robert Ferry*) and him the said *Robert Ferry*, out of the Possession of the same Premises, unlawfully and injuriously did expel and put out, and him the said *Robert Ferry*, so as aforesaid, expelled and put out from the Possession of the same Premises, on the Day and Year above-mentioned, and continually afterwards, until the Day of the taking this Inquisition, at the Parish aforesaid, in the County

County aforesaid, did unlawfully and injuriously keep out, and still do keep out, to the great Damage of the said *Robert Ferry*, and against the Peace of our said Lord the King, his Crown and Dignity.

*For a forcible Entry and Detainer,
upon the Statutes.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Edward Clark*, late of the Parish of *Kensington*, in the County of *Middlesex*, Gentleman, on the first Day of *April*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. was possessed of a certain Messuage, with the Appurtenances, situate, lying, and being in *Church-Lane*, in the Parish of *Kensington* aforesaid, in the County aforesaid, for a certain Term of Years, then and still to come, and unexpired, and being so possessed thereof, one *Samuel Richardson*, late of the same Parish of *Kensington*, in the said County of *Middlesex*, Baker, afterwards, to wit, the said first Day of *April*, in the Year aforesaid, into the said Messuage, with the Appurtenances aforesaid, in *Church-Lane*, in the Parish and County aforesaid, with Force and Arms, and with strong Hand, unlawfully did enter, and the said *Edward Clark*, from the peaceable Possession of the said Messuage, with the Appurtenances aforesaid, then and there with Force and Arms, and with strong Hand, unlawfully did expel and put out, and the said *Edward Clark* from the Possession thereof, so

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as aforesaid, with Force and Arms, and with strong Hand, being unlawfully expelled and put out, the said *Samuel Richardson*, him the said *Edward Clark* from the aforesaid first Day of *April*, in the Year aforesaid, until the Day of the taking this Inquisition, from the Possession of the said Messuage, with the Appurtenances aforesaid, with Force and Arms, and with strong Hand unlawfully and injuriously then and there did keep out, and still doth keep out, to the great Damage of the said *Edward Clark*, and against the Form of the Statutes in that Case made and provided.

1 Inst. 257. *When one or more Persons furnish'd*
H. P. C. 138 *with unusual Weapons, violently enter*
into the House or Land of another,
or use threatening Words, and by that Means gain
the Possession, or if they enter peaceably, and then
forcibly put another out of his Possession, &c.
these are forcible Entries, punishable by Law. If
one enter the House of another, with-
Cro Car 201 *out his Consent, although the Door*
be open, yet this is a forcible Entry,
if he detains the Possession.

'Tis enacted by Stat. 5 Ric. 2. c. 7. in the following Words; And also the King defendeth, That none from henceforth make any Entry into any Lands and Tenements, but in case where Entry is given by the Law; and in such case, not with strong Hand, nor with Multitude of People, but only in peaceable and easy manner. And if any Man from henceforth do to the contrary, and thereof be duly convicted, he shall be punished by Imprisonment of his Body, and thereof ransomed at the King's Will.

By

FORCIBLE ENTRY. 239

By the above Statute no Provision is made against forcible Detainer,, therefore 'tis enacted by Stat. 15 Ric. 2. c. 2. That the said Statute, and all others made against forcible Entries, &c. shall be fully executed; and farther, That at all Times that such forcible Entries shall be made, and complaint thereof cometh to the Justices of the Peace, or to any of them, that the same Justices or Justice take sufficient Power of the County, and go to the Place where the Force is made; and if they find any that hold such Place forcibly, after such Entry made, they shall be taken and put into the next Goal, there to abide convict, by the Record of the same Justices or Justice, until they have made Fine and Ransom to the King. And that all the People of the County, as well the Sheriff as others, shall be attendant upon the same Justices to go and assist the same Justices, to arrest such Offenders, upon Pain of Imprisonment, and to make Fine to the King. And in the same Manner it shall be done of them that make such forcible Entries in Benefices, or Offices of Holy Church.

By Stat. 8, H. 6. c. 9. when forcible Entry is committed, Justices of the Peace are to view the Place, and enquire of the Force, by a Jury summoned by the Sheriff; and cause the Tenements to be seized and restored, and imprison the Offenders 'till they pay a Fine, &c.

By Stat. 31 Eliz. c. 11. No Restitution upon any Indictment of forcible Entry, or holding with Force, shall be made to any Person, if the Person so indicted, hath had the Occupation, or been in quiet Possession, for the Space of three whole Years together, next before the Day of such Indictment, so found, and his Estate therein not ended; which the Party indicted may alledge for stay of Restitution,
and

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and Restitution to stay 'till that be tried, if the other will deny or traverse the same: And if the same Allegation be tried against the same Person so indicted, he is to pay such Costs and Damages to the other Party, as shall be assessed by the Judges or Justices, before whom the same shall be tried; the same Costs and Damages to be recovered and levied, as is usual for Costs and Damages contained in Judgments upon other Actions.

Since the Stat. 5. R. 2. If a
 3 Salk. 170. Man having good Right to enter on Lands, doth it forcibly, he may be indicted. Where there is a forcible Entry
 1 Ventr. 23. and Detainer, there may be Restitution; but not for a forcible Detainer: The Justices on forcible Detainer may punish the Force upon View, and Fine and Imprison the Offenders; though they
 1 Sid. 97. 156. can't meddle with the Possession.

FORESTALLERS, REGRATORS, and INGROSSEERS.

An Indictment for forestalling the Market.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *William Bonmont*, late of the Parish of *Fryen Parvet*, in the County of *Middlesex*, Yeoman, on the eleventh Day of *August*, in the third Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did buy, and cause to be bought of and from one *Thomas Harrison*, three hundred Pounds Weight of Cheese, for the Sum of three Pounds fifteen Shillings and Sixpence, of lawful Money of *Great-Britain*, as he the said

Thomas

Forestallers, Regrators, and Ingrossers. 241

Thomas Harrison, then and there was coming toward *London*, to wit, to a certain Market, called *Leaden-ball-Market*, in *London* aforesaid, to sell the said three hundred Pounds Weight of Cheese; and before the same was brought into the said Market, where the same should be sold, in Contempt of our said Lord the King and his Laws to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

By Stat. 5 and 6 Ed. 6. c. 14. *A Forestaller is one who buys or causes to be bought, any Merchandise, Victual, or any other Things whatsoever, coming by Land or by Water, towards any Market or Fair to be sold in the same, or coming toward any City, Port, Haven, Creek, or Road of this Realm, or Wales, from any Parts beyond the Sea to be sold, or makes any Bargain, Contract, or Promise, for the having or buying of the same, or any Part thereof, so coming as is aforesaid, before the said Merchandise, Victuals or other Things shall be in the Market, Fair, City, Port, Haven, Creek, or Road, ready to be sold: or shall make any Motion by Word, Letter, Message or otherwise, to any Person or Persons, for the enhaunsing of the Price, or dearer selling of any Thing or Things abovementioned, or else dissuade, move, or stir any Person or Persons, coming to the Market or Fair, to abstain or forbear to bring or convey any of the Things above rehearsed, to any Market, Fair, &c. to be sold, as is aforesaid.*

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That

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That the buying of any Barley, Bigge, or Oats, as any Person, (not Forestalling) shall buy to convert into Malt or Oatmeal in his own House, and so shall be converted indeed, shall not be taken to be within the said Act of

Persons and Things excepted out of the Act of Forestalling.

5 and 6. Ed. 6. c. 14. Purveyors of any City, or Town Corporate, &c. Fishmongers, Butchers, or Poulterers that buy any Victual as concern his own Faculty, Craft, or Mystery, otherwise than by Forestalling, who shall sell the same again upon any reasonable Prices by Retail; or the buying of any Wine, or any other dead Victual by any Innholder, or other Victualer, to sell the same by Retail within his House, or to any of his Neighbours, for reasonable Prices, shall not be deemed any Offence contrary to the said Act.

Notwithstanding this Exception, it hath been resolved, that any of the Persons therein mentioned may be indicted for ingrossing Victuals, with an Intent to sell them again, against the Form of the Statute: for it shall be intended that they ingrossed, and did not sell at reasonable Prices.

At common Law, Persons guilty of Forestalling, upon Indictment found, are liable to Fine and Imprisonment, answerable to their Offence.

against a Regrator.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That Simon Atkins, late of the Parish of St. Andrew, Holborn, in the County of Middlesex, Yeoman,

Yeoman, on the first Day of *March*, in the fourth Year of the Reign of our Sovereign Lord *George*, the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, to wit, in a certain Market there called *Brook's market*, did obtain and get into his Hands and Possession, ten Geese, thirty Ducks, and eighteen Drakes, of and from one *Ebenezer Carr*, for the Sum of four Pounds and nine Shillings, of lawful Money of *Great Britain*; (the said Geese, Ducks, and Drakes, then being brought to the said Market, by the said *Ebenezer Carr*, to be sold) and afterwards, to wit, on the same first Day of *March*, in the Year aforesaid, he the said *Simon Atkins*, at the Parish aforesaid, in the County aforesaid, in the said Market there, called *Brook's market* unlawfully did regrade the said Geese, Ducks, and Drakes, and sell the same again to one *William Simmonds*, for the Sum of five Pounds, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

By the Stat. 5 and 6 Ed. 6. c. 14. *Regrators* are those that shall by any Means regrate, obtain, or get into his or their Hands or Possession, in any Fair or Market, any Corn, Wine, Fish, Butter, Cheese, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pigeons, Conies, or other dead Victual whatsoever, that shall be brought to any Fair or Market, within this Realm or Wales, to be sold, and do sell the same again in any Fair or Market, bol-

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den or kept in the same Place, or in any other Fair or Market, within four Miles thereof.

Against an Ingrosser.

Shropshire. **T**HE Jurors for our Lord the King upon their Oath present, That *Hugh Morris*, late of the Parish of *Ofwestry*, in the County of *Salop*, Yeoman, on the ninth Day of *December*, in the sixth Year of the Reign of our Sovereign Lord *George the Second King of Great-Britain, &c.* at the Parish aforesaid, in the County aforesaid, did engross and get into his Hands, by buying of and from one *Richard Goodwin*, fifty Quarters of Wheat, to the Intent to sell the same again, to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

By the Stat. 5. and 6 Ed. 6. c. 14. *An Ingrosser is he who shall get into his Hands, by buying, contracting, or promise taking, other than by Demise, Grant, or Lease of Land or Tithes, any Corn growing in the Fields, or any other Corn or Grain, Butter, Cheese Fish, or other dead Victuals whatsoever, within the Realm of England, to the Intent to sell the same again, shall be accepted, reputed, and taken an unlawful Ingrosser or Ingrossers.*

Forestallers, Regrators and Ingrossers are to be punished as followeth: For the first Offence, to be imprisoned by the Space of two Months without Bail, and to forfeit the Value of the Goods &c. so by him or them bought or had;
for

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for the second Offence, double the Value of the Goods, and Imprisonment for half a Year; for the third Offence, the Offender to be set on the Pillory, and lose all the Goods, &c. be hath to his own Use, and also to be committed to Prison during the King's Pleasure, 5 and 6. Ed. 6. cap. 14.

Offender to be prosecuted within two Years after the Offence.

Stat. 5 and 6. Ed. 6. c. 14. made perpetual by Stat. 13 Eliz. c. 25. and enacted by the same Statute, That the Act against Regrators, &c. shall not extend to any Wines, Oiles, Sugars, Spices, Currants, nor other foreign Victuals brought into this Realm from beyond the Seas, Fish and Salt only excepted.

F O R G E R Y.

For forging a Writ of Fieri Facias, and thereby taking a Person's Goods in Execution.

Salop. **T**HE Jurors for our Lord the King upon their Oath present, That *L. Y.* late of the Parish of *Whitchurch*, in the County of *Salop*, Gentleman, falsly, unlawfully, and wickedly devising, contriving, and intending one *A. K.* late of the same Parish and County, Yeoman, unjustly, maliciously, and injuriously to aggrieve, oppress and impoverish, on the eighteenth Day of *June*, in the fifth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great-Britain*, &c. at *Whitchurch* aforesaid, in the County aforesaid, of the wicked Mind, Invention, and Imagination of him the said *L. Y.* unlawfully, knowingly, subtilly, and falsly did forge and counterfeit a certain Writing engrossed on Parchment,

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ment, in Form and to the Likeness and Similitude of a Writ of our Lord the King of *Fieri facias*, and purporting to be a Writ of our said Lord the King, of *Fieri facias*, issuing out of the Court of our said Lord the King of *Common Pleas*, at *Westminster*, in the County of *Middlesex*, and directed to the then Sheriff of *Salop*, by which it was commanded to the same Sheriff, that he should cause to be made of the Goods and Chatales of the said *A. K.* as well a certain Debt of forty Pounds, recovered by the said *L. Y.* in the said Court of our said Lord the King of *Common Pleas* against the said *A. K.* as thirteen Pounds sixteen Shillings and Eight pence, for Damages, which the said *L. Y.* had sustained on Occasion of detaining of that Debt; and that the same Sheriff should have that Money before the Justices of our said Lord the King of *Common Pleas* aforesaid, at *Westminster* aforesaid, from the Day of the *Holy Trinity*, in three Weeks then next following, to render to the aforesaid *L. Y.* the Debt and Damages aforesaid. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *L. Y.* of the wicked Mind, Invention and Imagination of him the said *L.* afterward to wit, on the twenty-ninth Day of the said Month of *June*, in the fifth Year aforesaid, at *Whitchurch* aforesaid, in the said County of *Salop*, the said false, forged, and counterfeit Writing, falsely forged, purporting to be a Writ of *Fieri facias*, subtilly, falsely, knowingly, and deceitfully did pronounce and publish, and that then and there, to wit, the same twenty-ninth Day of *June*, in the fifth Year aforesaid, at *Whitchurch* aforesaid, in the County of *Salop* aforesaid, subtilly, falsely, knowingly, and deceitfully, as a true Writ of our said Lord the King, of *Fieri facias*, did cause to be delivered to the
then

then Sheriff of *Salop*, for Execution to be made thereof, and afterward, to wit, on the thirtieth Day of the same Month of *June*, at *Whitchurch* aforefaid, in the County of *Salop* aforefaid, did cause to be made, diverse Goods and Chattles of the faid *A. K.* by Pretence of that Writ. And the Jurors aforefaid, upon their Oath aforefaid, do further present, That the faid *L. Y.* on the twenty-ninth Day of *June*, in the fifth Year aforefaid, at *Whitchurch* aforefaid, in the County of *Salop* aforefaid, of the wicked Mind, Invention, and Imagination, of the faid *L. Y.* a certain false and counterfeit Writing, engrossed on Parchment, falsely forged, in Form and to the Likeness and Similitude of a Writ of our faid Lord the King, of *Fieri facias*, issuing out of the faid Court of our faid Lord the King, of *Common Pleas*, and directed to the then Sheriff of *Salop*, by which it was commanded to the same Sheriff, that he should cause to be made, of the Goods and Chattles of the faid *A. K.* as well a certain Debt of forty Pounds, recovered by the faid *L. Y.* in the faid Court of our faid Lord the King of *Common Pleas*, against the faid *A. K.* as thirteen Pounds, sixteen Shillings and Eight-pence, for Damages which the faid *L.* had sustained, on Occasion of detaining of that Debt, and that the same Sheriff should have that Money before the Justices of our faid Lord the King, of *Common Pleas* aforefaid, at *Westminster* aforefaid, from the Day of the *Holy Trinity*, in three Weeks than next following to render to the aforefaid *L. Y.* the Debt and Damages aforefaid (he the faid *L. Y.* then, to wit, the same twenty-ninth Day of *June*, and before, well and surely knowing that false and counterfeit Writ to be falsely forged) unlawfully knowingly, subtilly and deceitfully, as a true Writ of our

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saïd Lord the King, of *Fieri facias*, did pronounce and publish, and that Writ, as a true Writ of our saïd Lord the King, of *Fieri facias*, then and there, to wit, the saïd thirtieth Day of *June*, in the fifth Year above-saïd, at *Whitchurch* afore-saïd, in the County of *Salop* afore-saïd, subtilly, falsly, knowingly and deceitfully, did cause to be delivered to the then Sheriff of *Salop*, for Execution to be made thereof, and afterward, to wit, on the same thirtieth Day of *June*, in the Year above-saïd, did cause to be made diverse Goods and Chattles of the saïd *A. K.* by Virtue of that Writ to the great Damage and Oppression of the saïd *A. K.* to the evil Example of all others in the like Case offending, and against the Peace of our saïd Lord the King, his Crown and Dignity.

The Defendant was convicted on this Indictment, at the Assizes holden at Shrewsbury, and was fined One hundred Pounds, and ordered to be put in the Pillory.

For forging an Indenture of Bargain and Sale, and a Release of another's Freehold Estate, in Right of his Wife upon Stat, 5 Eliz. c. 14.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Joseph Garbet*, Gent. and *Elizabeth* his Wife, in Right of her the saïd *Elizabeth*, on the twenty-first Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Second now King of *Great-Britain*, &c. and long before, was seised in his Demesne, as of Fee of, and in certain Messuages, Lands, and Tenements, called
Jarwick,

Jawick, with their Appurtenances, in the Parish of *Clackton* in the County of *Essex*, and that *Japhet Crooke* late of *London*, Merchant, being a Person of evil Fame, and of a wicked Disposition, and contriving and intending the said *Joseph Garbett*, and *Elizabeth* his Wife, unjustly to aggrieve, and with an Intent, that the State of Freehold, of them the said *Joseph* and *Elizabeth Garbet*, of and in the said Lands, Tenements and Hereditaments, called *Jawick*, in the Parish of *Clackton*, in the County of *Essex* aforesaid, and the Right, Title and Interest of the said *Joseph* and *Elizabeth*, of and in the same, should be molested and troubled, afterwards, to wit, on the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, at the Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, upon his own Head and Imagination, with Force and Arms, &c. knowingly, subtilly, and falsely, did forge and make, and cause to be forged and made, one false Writing sealed, purporting to be sealed and delivered by the said *Joseph Garbett*, and *Elizabeth*, and in itself purporting to be an Indenture of Bargain and Sale for one Year, and to bear Date the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, and supposed to be made between them the said *Joseph* and *Elizabeth*, by the Names of *Joseph Garbett*, of the City of *Gloucester*, Gentleman, and *Elizabeth* his Wife, of the one Part, and the aforesaid *Japhet*, by the Name of *Japhet Crooke*, of *London*, Merchant, of the other Part: In which said Indenture is mentioned and supposed, among other Things, That for and in Consideration of the Sum of five Shillings of lawful Money of *Great Britain*, to the said *Joseph Garbett* and *Elizabeth* his Wife, in Hand paid, by the said *Japhet Crooke*, at or
before

before the Sealing and Delivering of the same Indenture, the Receipt whereof the said *Joseph Garbett* and *Elizabeth* his Wife thereby are mentioned to have acknowledged, they the said *Joseph Garbett*, and *Elizabeth* his Wife, had granted, bargained and sold, and by the same Indenture have granted, bargained and sold, unto the said *Japhet Crooke*, all that Park commonly called, or known by the Name of *Fawick Park*, in the Parish of *Clackton*, in the County of *Essex*, being about eight Miles in Circumference, and containing, by Estimation, four Thousand Acres or thereabouts, or more or less, or by whatever other Name or Names, Quantity or Quantities, or otherwise the said thereby bargained and sold Premises, or any Part thereof were, or was, or had been reputed, called, known or distinguished; together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Herditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining, and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby bargained and sold, or meant, mentioned, or intended so to be, and every Part thereof, unto the said *Japhet Crooke*, his Executors, Administrators, and Assignes from the Day next before the Day of the Date of the same Indenture, for and during, and until the full End and Term of one whole Year, from thence next following, and fully to be compleat and ended, yielding and paying therefore upon the last Day of the said Term thereby granted, the Rent of one Pepper Corn, if the same should be lawfully demanded

demanded, to the Intent and Purpose, that by Virtue thereof, and of the Statute for transferring of Uses into Possession, the said *Japbet Crooke* might be in actual Possession of all and singular the said Premises thereby granted, bargained, and sold, or meant, or intended so to be, and thereby might be enabled to receive and take the Grant and Release, Reversion and Inheritance thereof, to the Use of himself, his Heirs, and Assigns for ever; to the great Damage of the said *Joseph Garbett*, and *Elizabeth* his Wife, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Japbet Crooke* contriving and intending the said *Joseph Garbett*, and *Elizabeth* his Wife as aforesaid, unjustly to aggrieve, and with the said Intent, that the State of Freehold of them the said *Joseph* and *Elizabeth*, in Right of the said *Elizabeth* of and in the said Lands, Tenements, and Hereditaments, and the Right, Title, and Interest of them the said *Joseph* and *Elizabeth*, of and in the same, should be molested and troubled, on the said twenty-first Day of *September*, in the first Year of the Reign of our said now Lord the King, at the Parish of *St. Dunstan* in the *West* aforesaid, in the County of *Middlesex* aforesaid, upon his own Head and Imagination, with Force and Arms, &c. knowingly, subtilly, and falsely did forge and make, and cause to be forged and made, one other false Writing sealed, in itself purporting to be an Indenture of Release, and to bear Date on the twenty-second Day of *September*, in the said first Year of the Reign of our said now Lord the King, and supposed to be made between
them

them the said *Joseph Garbett*, and *Elizabeth* his Wife, by the Names of *Joseph Garbett*. of the City of *Gloucester*, Gent. and *Elizabeth* his Wife of the one Part, and the said *Japhet*, by the Name of *Japhet Crooke*, of *London*, Merchant, of the other Part, in which said Indenture of Release is mentioned and supposed (among other Things) that for and in Consideration of the Sum of four thousand and five hundred Pounds of lawful Money of *Great Britain*, to the said *Joseph Garbett*, and *Elizabeth* his Wife, in Hand paid by the said *Japhet Crooke*, at and before the Sealing and Delivery of the said Indenture of Release, the Receipt and Payment whereof, the said *Joseph Garbett*, and *Elizabeth* his Wife, by the same Indenture of Release are mentioned to have acknowledged, and of the same and every Part thereof to have acquitted, exonerated, and discharged the said *Japhet Crooke*, his Heirs, Executors, Administrators, and Assigns, and every of them thereby, they the said *Joseph Garbett*, and *Elizabeth* his Wife had granted, bargained, sold, aliened, released, and confirmed, and by the same Indenture of Release have granted, bargained, sold, aliened, released, and confirmed to the said *Japhet Crooke* as by the same Indenture is supposed (in his actual Possession, then being by Virtue of a Bargain and Sale to him thereof made and granted by the said *Joseph Garbett*, and *Elizabeth* his Wife, in Consideration of five Shillings, by Indenture bearing Date the Day next before the Day of the Date of the same Indenture of Release, for one whole Year, to begin from the Day next before the Day of the Date of the said Indenture of Bargain and Sale, and mentioned to be executed before the supposed Sealing and Delivery of the same Indenture of Release, and by Force of the Statute for transferring Uses into Possession)

sion) to his Heirs and Assigns for ever, all that Park,
 and commonly called or known by the Name of
Jawick Park, in the Parish of *Clackton*, in the
 County of *Essex*, being about eight Miles in
 Circumference, and containing by Estimation
 four thousand Acres or thereabouts, or more or
 less, or by whatsoever Name or Names, Quan-
 tity or Quantities the said thereby granted and
 released Premises, or any Part thereof, were,
 was or had been reputed, called, known, or di-
 stinguished, together with the Trees, Woods,
 Underwoods, Deer, Commons, Ways, Rights,
 Privileges, Royalties, Members, Hereditaments,
 Emoluments, and Appurtenances whatsoever to
 the same belonging, or in any wise appertaining;
 and the Reversion and Reversions, Remainder
 and Remainders, Rents, Issues, and Profits there-
 of, and all the Estate, Right, Title, Interest,
 Use, Trust, Possession, Freehold, Inheritance,
 Property, Claim, and Demand whatsoever, as
 well in Law as in Equity, of them the said *Jo-
 seph Garbett*, and *Elizabeth* his Wife, of, in, to,
 or out of the said Park and Premises, and eve-
 ry Part and Parcel thereof; and also all Deeds,
 Evidences, Minuments, Escripts, and Writings
 belonging, touching, or in any wise concerning
 the same Lands, Hereditaments, and Premises,
 or any Part thereof, to have and to hold the
 said Park, Trees, Woods, Underwoods, Deer,
 Hereditaments, and Appurtenances thereby granted
 and released, or meant, mentioned, or intended
 so to be, and every Part thereof, to the said
Japhet Crooke, his Heirs and Assignes, and to
 the only proper Use, Benefit, and Behoof of
 the said *Japhet Crooke*, and his Heirs and As-
 signes, to the great Damage of the said *Jo-
 seph Garbett*, and *Elizabeth* his Wife, to the
 evil

evil Example of all others, in the like Case offending, against the Form of the Statute in that Case made and provided, and also against the Peace of our said now Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Japhet Crooke* being a Person of evil Name, Fame, and wicked Disposition, and contriving and intending the said *Joseph Garbett*, Gentleman, and *Elizabeth* his Wife, unjustly to aggrieve, and with an Intent that the State of Freehold of them the said *Joseph* and *Elizabeth Garbett*, in Right of the said *Elizabeth*, of and in certain Lands, Tenements, and Hereditaments, called *Farwick*, in the Parish of *Clackton*, herein before-mentioned, in the County of *Essex*, and the Right, Title, and Interest of the said *Joseph* and *Elizabeth*, of and in the same, should be molested and troubled, on the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, at the said Parish of *St. Dunstan* in the *West*, in the County of *Middlesex* aforesaid, with Force and Arms, &c. falsely did pronounce and publish one false forged Writing sealed, purporting to be sealed and delivered by the said *Joseph Garbett*, and *Elizabeth* his Wife, as a true Writing, he the said *Japhet Crooke* knowing that Writing to be a false, forged and counterfeited Writing, the same Writing in itself purporting to be an Indenture of Bargain and Sale for one Year, and to bear Date on the twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, and to be made between the said *Joseph* and *Elizabeth*, by the Names of *Joseph Garbett*, of the City of *Glo-*
cester

cester, Gentleman, and *Elizabeth* his Wife of the one Part, and the said *Japhet Crooke*, by Name of *Japhet Crooke*, of *London*, Merchant, of the other Part; in which same Indenture of Bargain and Sale last mentioned, is mentioned and supposed (among other Things) that for and in Consideration of the Sum of five Shillings of lawful Money of *Great Britain*, to the said *Joseph Garbett*, and *Elizabeth* his Wife, in Hand paid by the said *Japhet Crooke*, at or before the Sealing and Delivery of the same Indenture, the Receipt whereof the said *Joseph Garbett*, and *Elizabeth* his Wife, thereby are mentioned to have acknowledged, they the said *Joseph Garbett*, and *Elizabeth* his Wife had granted, bargained, and sold, and by the same Indenture have granted, bargained, and sold to the said *Japhet Crooke*, all that Park commonly called or known by the Name of *Farwick Park*, in the Parish of *Clackton*, in the County of *Essex*, being about eight Miles in Circumference, and containing, by Estimation, four thousand Acres or thereabouts, or more or less, or by whatever other Name or Names, Quantity or Quantities, or otherwise the said thereby bargained and sold Premises, or any Part thereof, were, or was, or had been reputed, called, known, or distinguished, together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Hereditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining, and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby bargained and sold, or meant, mentioned, or intended so to be

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be, and every Part thereof, to the said *Japhet Crooke*, his Executors, Administrators, and Assignes, from the Day next before the Day of the Date of the same Indenture of Bargain and Sale last-mentioned, for, and during, and until the full End and Term of one whole Year, from thence next ensuing, and fully to be compleat and ended, yielding and paying therefore, upon the last Day of the said Term thereby granted, the Rent of one Pepper Corn, if the same should be lawfully demanded, to the Intent and Purpose, that by Virtue thereof, and of the Statute for transferring Uses into Possession, the said *Japhet Crooke* might be in actual Possession of all and singular the said Premises thereby granted, bargained, and sold, or meant or intended so to be, and thereby might be enabled to accept and take the Grant and Release, Reversion, and Inheritance thereof to the Use of himself, his Heirs, and Assignes for ever (he the said *Japhet Crooke* at the said Time, that he the said *Japhet* as aforesaid, did publish and pronounce the said false forged Writing, as a true Writing, well knowing that Writing to be falsly forged) to the great Damage of the said *Joseph Garbett*, and *Elizabeth* his Wife, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity. And the Jurors aforesaid upon their Oath aforesaid, do further present, That the said *Japhet Crooke* contriving and intending the said *Joseph Garbett*, and *Elizabeth* his Wife as aforesaid, unjustly to aggrieve, and with the aforesaid Intent, that the said State of Freehold of them the said *Joseph* and *Elizabeth*,

Elizabeth, in Right of the said *Elizabeth*, of and in the Lands, Tenements, and Hereditaments last mentioned, and the Right, Title and Interest of the said *Joseph* and *Elizabeth*, in the same should be molested and troubled, on the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, at the Parish of *St. Dunstan in the West* aforesaid, in the County of *Middlesex* aforesaid, with Force and Arms, &c. falsely did pronounce and publish one false forged Writing sealed, he the said *Japhet Crooke* knowing that Writing to be a false, forged and counterfeited Writing, the same Writing in itself, purporting to be an Indenture of Release, and to bare Date the twenty-second Day of *September*, in the said first Year of the Reign of our said now Lord the King, and to be made between them the said *Joseph Garbett*, and *Elizabeth* his Wife, by the Names of *Joseph Garbett*, of the City of *Gloucester*, Gentleman and *Elizabeth* his Wife of the one Part, and the said *Japhet*, by the Name of *Japhet Crooke*, of *London*, Merchant, of the other Part, in which said Indenture of Release is mentioned, and supposed (among other Things) that for and in Consideration of the Sum of four thousand and five hundred Pounds, of lawful Money of *Great Britain*, to the said *Joseph Garbett*, and *Elizabeth* his Wife in Hand paid, by the said *Japhet Crooke*, at and before the Sealing and Delivery of the same Indenture of Release last-mentioned, the Receipt and Payment whereof the said *Joseph Garbett*, and *Elizabeth* his Wife, by the same Indenture of Release are mentioned to have acknowledged, and of the same and every Part thereof, to have acquitted, exonerated,

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and

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and discharged the said *Japhet Crooke*, his Heirs, Executors, Administrators, and Assigns, and every of them thereby, they the said *Joseph Garbett*, and *Elizabeth* his Wife had granted, bargained, sold, aliened, released, and confirmed, and by the same Indenture have granted, bargained, sold, aliened, released, and confirmed to the said *Japhet Crooke*, as by the same Indenture is supposed (in his actual Possession then being, by Virtue of a Bargain and Sale to him thereof granted by the said *Joseph Garbett*, and *Elizabeth* his Wife, in Consideration of five Shillings, by Indenture bearing Date the Day next before the Day of the Date of the said last-mentioned Indenture of Release, for one whole Year, to begin from the Day next before the Day of the Date of the same Indenture of Bargain and Sale last-mentioned, and mentioned to be executed before the supposed Sealing and Delivering of the last mentioned Indenture of Release, and by Force of the Statute for transferring Uses into Possession) and to his Heirs and Assigns for ever, all that Park, commonly called or known by the Name of *Jawick Park*, in the Parish of *Clackton* in the County of *Essex*, being about eight Miles in Circumference, and containing by Estimation four thousand Acres, or thereabouts, or more or less, or by whatever, other Name or Names, Quantity or Quantities, the said thereby granted and released Premises, or any Part thereof were, was, or had been reputed, called, known, or distinguished, together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Hereditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining, and the

Reversion

Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, and all the Estate, Right, Title, Interest, Use, Trust, Possession, Freehold, Inheritance, Property, Claim, and Demand whatsoever, as well in Law as Equity, of them the said *Joseph Garbett* and *Elizabeth* his Wife, of, in, to, or out of the said Park and Premises, and every Part and Parcel thereof; and also all Deeds, Evidences, Minuments, Escripts, and Writings touching, or in any wise concerning the same Lands, Hereditaments, and Premises, or any Part thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby granted and released, or meant, mentioned, or intended so to be, and of every Part thereof to the said *Japhet Crooke*, and his Heirs and Assigns, and to the only proper Use, Benefit, and Behoof of the said *Japhet Crooke*, and his Heirs and Assigns (he the said *Japhet Crooke*, at the said Time, that he the said *Japhet* published and pronounced the said last-mentioned false forged Writing in Form aforesaid, as a true Writing, well knowing that Writing to be falsly forged) to the great Damage of the said *Joseph Garbett*, and *Elizabeth* his Wife, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and also against the Peace of our said now Lord the King, his Crown and Dignity.

Upon the above Indictment, the Defendant Crooke was tried in his Majesty's Court of King's-Bench at Westminster, before the Lord Chief Justice Raymond, and was convicted thereof. Sometime afterwards, the said Defendant, by

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his Council, moved in Arrest of Judgment, when several Exceptions were taking to the Indictment, but the Court over ruled them, and proceeded to give Judgment against the said Defendant, pursuant to the Directions of the Stat. 5 Eliz. c. 14. which Sentence was executed on the said Defendant at Charing-Cross, by the common Hangman, and the Defendant was imprisoned in the King's Bench Prison, during his Life.

Forgery is of two Kinds { 1. By Common Law,
2. By Statute.

By common Law it seems to be an Offence in falsly and fraudulently making or altering any Matter of Record, or any other authentick Matter of a publick Nature, as a Parish Register, or any Deed or Will.

For the better Understanding whereof, it is to be considered,

1. In what Cases the making or altering of a Writing shall be said to be so far false and fraudulent, as to amount to Forgery.

2. That a Man may be guilty of Forgery in respect of all the above-mentioned Writings.

As to the first Particular, it is said to be possible for a Man knowingly to make a Deed in his own Name, and also to sign and seal it himself, which yet, in Judgment of Law, may be no better than a downright Forgery; as if a Man makes a Feoffment of certain Lands to A. T. and afterwards makes a Feoffment of the same Lands to N. H. of a prior Date, in which Case he is said to be guilty of Forgery, because he knowingly falsifies the Date, in Order to defraud his own Feoffee, by making a second Conveyance, which,

3. Inst. 169.
Pult. 46.
27 H. 6. 3.

at

at the Time, he had no Power to make. Also it is said, that his Crime would have been no less, if by his Conveyance he had passed only an equitable Interest for good Consideration, and had afterwards, by such a subsequent ante-dated Conveyance, endeavoured to avoid it. Also in many other Cases, a Writing may be said to be forged where neither the Hand nor Seal of any one are forged; as where one being directed to draw up a Will for a sick Person, doth insert some Legacies therein of his own Head; or, where one finding another's Name at the Bottom of a Letter, at a Distance from the other Writing, causes the Letter to be cut off, and a General Release to be written above the Name, and then takes off the Seal, and fixes it under the Release, or where one inserts into an Indictment the Names of those against whom, in Truth, it was not found; or where one makes any fraudulent Alteration of the Form of a true Deed, in a material Part of it, as by making a Lease of the Manor of Dale appear to be a Lease of the Manor of Sale, by changing the Letter D. into an S; as by making a Bond for five Hundred Pounds, expressed in Figures, seem to have been made for five Thousand by adding a new Cypher, But Sir Edward Coke seems to say, that a Deed so altered may more properly be called a false than forged Writing, because it is not forged in the Name of another, nor his Seal nor Hand counterfeited. But, no good Reason, why such an Alteration of a Deed should not as properly be called Forgery, as the entire making of a new Deed in another's Name; for in both Cases, not only the Fraud and Villainy are the same, but also a Man's Hand and Seal are falsely made Use of, to

Moore 655.

Noy 101.

Moor. 759, 760:

3 Inst. 171.

3 Mod. 66.

3 In. 169.

Moore 619.

3 Inst. 169.

Vid. Moore 619:

3 Mod. 66.

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testify his Assent to an Instrument, which, after such an Alteration, is no more his Deed, than a Stranger's.

Vide 2 Rol. Ab. 28, 29. The Notion of Forgery doth not seem so much to consist in the counterfeiting a Man's Hand and Seal, which may

11 Co. 27. often be done innocently, but in endeavouring to give an Appearance of Truth to a mere Deceit and Falsity, and either to impose that upon the World, as the solemn Act of another, which he is no way privy to; or, at least, to make a Man's own Act appear to have been done at a Time when it was not done, and, by Force of such a Falsity, to give it an Operation, which in Truth and Justice it ought not to have, as appears by the foregoing Cases, to most of which Sir Edward Coke seems to agree.

He who writes a Deed in another's Name, and seals it in his Presence, and by his Command, is not guilty of Forgery; the Law looks on this as the other's own Sealing.

He is not punishable for Forgery, who razeth the Word Pounds out of a Bond made to himself, and putteth in Marks; because there's no Appearance of a fraudulent Design to cheat another, and the Alteration is prejudicial to none but to him who makes it, whose

Vide 1 Hawk. Pleas of the Cr. c. 70. Sect. 4. Security for his Money is wholly avoided by it; yet it is said, that it would be Forgery, if by the Circumstances of the Case, it should any Way appear to have been done with an Eye of gaining an Advantage to the Party himself, or of prejudicing a third Person; also 'tis holden, that such an Alteration, even without these Circumstances, is a Misdemeanor, tho' it be no Forgery.

It hath been resolved, that a Man shall not be adjudged guilty of Forgery for writing a Will for another;

another, without any Directions from him, who becomes Non compos before it is brought to him; for it is not the bare writing an Instrument in another's Name without his Privy, but the giving it a false Appearance of having been executed by him, which makes a Man guilty of Forgery. Moore, 760.

Regularly a Man cannot commit an Act of Forgery by a bare Nonfeasance, as by omitting a Legacy out of a Will which he is directed to draw for another; Yet it hath been holden by some, even in this Case, that if the Omission of a Bequest to one, cause a material Alteration in the Limitation of a Bequest to another, as where the Omission of a Devise of an Estate for Life to one Man, causeth a Devise of the same Lands to another, to pass a present Estate, which otherwise would have pass'd a Remainder only, he, who makes such an Omission, is guilty of Forgery. Moore 760 Noy 101.

It seemeth no Way material whether a forged Instrument be made in such a Manner, that if it were in Truth, such as it is counterfeited for, it would be of Validity, or not; and upon this Ground it hath been adjudged, that the Forgery of any Protection in the Name of A. B. as being a Member of Parliament, who, in Truth, at the Time, was not a Member of Parliament, is as much a Crime, as if he were. 1 Sid 142.

To shew that a Man may be guilty of Forgery at Common Law, in Respect of any of the abovementioned Writings, and no other.

It is clear, that one may be guilty thereof by the Common Law, by counterfeiting a Matter of Record, for since the Law gives the highest Credit to all Records, it cannot be but of the

1 Rol. Ab. 65:
Yel. 146.
Cro. Eliz. 178.
3 Mod. 66.

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utmost ill Consequence to the Public, to have them either forged or falsified.

Also there seemeth to be no Doubt, but that one may be guilty of this Crime as by the Common Law, by forging any other authentic Matter of a public Nature, as a Privy Seal (a) or a

(a) 1 Rol. Ab. 68 Pl. 33.

Cro. Ca. 326.

1 Jon. 325.

(b) 1 Rol. Ab.

65. Pl. 5.

2 Bol. 137.

(c) 1 Lev. 137.

(d) 1 Sid. 142.

(e) 1 Rol. Ab.

66. Pl. 10.

Licence (b) from the Barons of Exchequer to compound a Debt, or a Certificate (c) of Holy Orders, or a Protection (d) from a Parliament Man.

It is also unquestionable, that a Man may be in like Manner guilty of Forgery at Common Law by forging a Deed (e), and surely ther cannot be any Reason or Doubt, but that one may be equally guilty by forging a Will (f), which cannot be thought to be of less Consequence than a Deed.

(f) Moore 760.

As to Forgery by Statute Law; by the 5 Eliz. c. 14. 'tis enacted, That if any Person or Persons, upon his or their own Heads and Imagination, or by false Conspiracy and Fraud with others, shall wittingly, subtilly, and falsely forge and make, or subtilly cause or wittingly Assent to be forged or made, any false Deed, Charter, or Writing sealed, Court Roll, or the Will of any Person or Persons, in Writing, to the Intent that the State of Freehold or Inheritance of any Person or Persons, of, in, or to any Lands, Tenements, or Hereditaments, Freehold or Copyhold, or the Right, Title, or Interest of any Person or Persons, of, in, or to the same, or any of them, shall or may be molested, troubled, defeated, recovered or charged, or shall pronounce, publish, or shew forth in Evidence, any such false and forged Deed, Charter, Writing, Court-Roll, or Will, as true, knowing the same to be false and

and forged, as is aforesaid, to the Intent above remembred (except being an Attorney, Lawyer, or Counceller, he shall, for his Client, plead, shew forth, or give in Evidence such false and forged Deed, &c. to the Forgering whereof he was not party or privy) and shall be thereof convicted, either upon Action or Actions of Forgery or false Deeds, to be founded upon the said Statute, at the Suit of the Party grieved, or otherwise, according to the Order and due Course of the Laws of this Realm, &c. shall pay unto the Party grieved, his double Costs and Damages; to be found or assessed in that Court where such Conviction shall be, and also shall be set upon the Pillory in some open Market Town, or other open Place, and there have both his Ears cut off, and also his Nostrills slit, and cut. and seared with a hot Iron, &c. and shall forfeit to the King, the whole Issues and Profits of his Lands and Tenements, and suffer perpetual Imprisonment, &c.

And it is farther enacted by the said Statute, Sec. 3, That if any Person or Persons, upon his or their own Head or Imagination or by false Conspiration or Fraud had with any other, shall wittingly, subtilly, and falsly forge or make, or wittingly, subtilly, and falsly cause or assent to be made or forged, any false Charter, Deed or Writing, to the Intent that any Person or Persons, shall or may have or claim any Estate or Interest for Term of Years, of, in, or to any Manors, Lands, Tenements, or Hereditaments not being Copy hold, or any Annuity in Fee-simple, Fee-tail, or for Term of Life, Lives, or Years, or shall, as is aforesaid, forge, make, or cause or assent to be made or forged, any Obligation or Bill Obligatory, or any Acquittance, Release, or other Discharge of any Debt, Accompt, Action, Suit, Demand, or other Thing personal; or shall pronounce,

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pronounce, publish or give in Evidence (except, as is before excepted) any such false or forged Charter, Deed, Writing, Obligation, Bill Obligatory, Acquittance, Release, or Discharge, as true, knowing the same to be false and forged, and shall be thereof convicted by any of the Ways and Means aforesaid; he shall pay unto the Party grieved his double Costs and Damages, to be found and assessed in such Court where the said Conviction shall be had, and shall be also set upon the Pillory in some open Market Town, or other open Place, and there have one of his Ears cut off, and also shall suffer Imprisonment for one Year, &c.

And it is further enacted by the said Statute, Sec. 7 and 8, That if any Person or Persons, being convicted or condemned of any of the Offences aforesaid, by any the Ways and Means above-limited, shall, after any such his or their Conviction or Condemnation, escape, commit, or perpetrate any of the said Offences, in Form aforesaid, that then every such second Offence shall be adjudged Felony without Benefit of Clergy, saving to all Persons other than the said Offenders, and such as claim to their Uses, all such Rights, &c. which they shall have to any the Hereditaments of any such Person, so as is aforesaid, convicted or attainted, at any Time before, &c. saving also the Dower of such Offender's Wife, and the Right of his Heir.

And 'tis farther enacted by the said Statute, Sec. 10, That all Justices of Oyer and Terminer, and Justices of Assise, shall have Power to enquire of, hear, and determine the Offences aforesaid.

But it is provided Sec. 9, 12 and 16, That this Act, or any Thing therein contained, shall not extend to any Ordinary, or his Commissary, &c.

&c. for putting their Seal of Office to any Will to be exhibited unto them, not knowing the same to be false or forged, or for writing of the said Will, or prohibiting of the same, nor to any Proctor, &c. of any Ecclesiastical Court, for the writing, setting forth, or pleading of any Proxy made according to the Ecclesiastical Law, &c. for the Appearance of any Person, being cited to appear in such Court, nor to any Arch-deacon or Official, for putting their authentic Seal to the said Proxy or Proxies, nor to any Ecclesiastical Judge, for omitting the same, nor to any Person who shall Plead or shew forth any Deed or Writing, exemplified under the great Seal of England, or under the Seal of any other authentic Court of this Realm, nor to any Person who shall cause any Seal of any Court to be set to any such Deed, Charter, or Writing enrolled, not knowing the same to be false or forged.

G A M I N G.

For winning above Ten Pounds, at Cards at one Time and Sitting.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That L. U. late of the Parish of St Paul, Covent-Garden, in the County of *Middlesex*, Gent. after the first Day of May, in the Year of our Lord, One thousand seven hundred and eleven, to wit, on the twentieth Day of November, in the sixth Year of the Reign of our Sovereign Lord George the Second, King of Great-Britain, &c. at the Parish aforesaid, in the County aforesaid, did, by gaming with N. O. Gentleman win, at one Time and Sitting,

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Sitting, above the Sum of ten Pounds, (that is to say) th Sum of one thousand and fifty Pounds. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *L. U.* afterward, to wit, on the twenty-first Day of the said Month of *November*, in the Year aforesaid, at the same Parish and County did receive, obtain, and acquire to himself of and from the said *N. O.* for and in Satisfaction of the said one thousand and fifty Pounds, so won as aforesaid, three several promissory Notes, each Note of the Value of three hundred and fifteen Pounds, the Property of the said *N. O.* amounting together to the Value of nine hundred and forty-five Pounds, each of which said Notes was signed on the Behalf of *Marten and Company*, then being Bankers in *London*, intitling the Bearer of each of the said respective Notes, to the Sum of three hundred and fifteen Pounds; and also one other promissory Note of the Value of one hundred and five Pounds, the Property of the said *N. O.* signed on the Behalf of *Francis Child and Company*, Bankers in *London* intitling the Bearer thereof to the Sum of one hundred and five Pounds, to the great Damage of the said *N. O.* to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *L. U.* on the said twenty-first Day of *November*, in the said sixth Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County of *Middlesex*, did, by gaming and playing at Cards with *N. O.* Gent. win, obtain, and acquire to himself, at one Time and Sitting, above the Sum of ten Pounds (that is to

to say) the Sum of one thousand and fifty Pounds of and from the said *N. O.* to the great Damage of the said *N. O.* to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

A N O T H E R.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *H. A.* late of the Parish of *St. Mary le bone*, in the County of *Middlesex*, Gent, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and eleven, to wit, on the twentieth Day of *November*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great-Britain*, &c. at the Parish of *St. Martin in the Fields*, in the County aforesaid, did, by gaming and playing at Cards with *A. P.* Gent. win at one Time and Sitting, above the Sum of ten Pounds, that is to say, the Sum of four hundred and twenty Pounds. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *H. A.* afterward, to wit, on the twenty-fourth Day of *November*, in the Year aforesaid, in the Parish above mentioned, in the County aforesaid, did receive, obtain, and procure to himself of the said *A. P.* but from and by the Hands of *George Shank*, of *London*, as Agent or Servant to the said *A. P.* for and in Satisfaction of the said four hundred and twenty Pounds so won as aforesaid, the Sum of four hundred and twenty Pounds of lawful Money of *Great Britain*, to the great Damage of the said *A. P.* to the evil Example of all others in the like Case offending, against the Form of the Statute,
in

in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

A N O T H E R.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Lambeth*, in the County of *Surry*, Gent. and *C. D.* late of the same, Labourer, being Persons of evil Name and Fame, and dishonest Conversation, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and eleven, to wit, on the twenty-ninth Day of *June*, in the eighth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, out of the Palaces of our said Lord the King, called *St. James* and *Whitehall*, and not within any Royal Palace where our said Lord the King was then actually Resident, but in a certain House, called *Lark Hall*, lying and being in the Parish aforesaid, in the County aforesaid, by playing there at an unlawful Game at Cards, called *Cribbage*, with one *E. F.* they the said *A. B.* and *C. D.* at that unlawful Game, at one Time and Sitting, did then and there unlawfully win of the said *E. F.* above the Sum of ten Pounds, to wit, the Sum of eleven Pounds and nine Shillings of lawful Money of *Great Britain*, of the Monies of the said *E. F.* to the great Damage of him the said *E. F.* against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

For

*For winning above ten Pounds at
Dice, at one Time and Sitting.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Robert Hook*, late of the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex*, Labourer, not regarding the Laws and Statutes of this Realm, nor fearing the Fains and Penalties contained therein, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and eleven, to wit, on the fourteenth Day of *November*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, by Fraud, Shift, Cousenage, Circumvention, Deceit, unlawful Device, and ill Practice, did win, obtain, and acquire to himself twelve Pounds nineteen Shillings and Sixpence of lawful Money of *Great Britain*, of the Monies of one *George Darby*, of and from him the said *George Darby*, in and by playing with him the said *George Darby* at Dice, to the great Damage of the said *George Darby*, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

“ By the Stat. 9 *Ann. c. 14. For the better*
 “ *preventing of excessive and deceitful Gaming,*
 “ *’Tis enacted, That after the first Day of May,*
 “ One thousand seven hundred and eleven, all
 “ Notes, Bills, Bonds, &c. given by any Per-
 “ son, where the Consideration is for Money,
 “ or other valuable Thing, won by Gaming or
 “ playing at Cards, Dice, Tables, Tennis, Bowls, or
 “ other

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“ other Game, or by Betting, or for repaying
 “ any Money knowingly lent for such Gaming
 “ or Betting, or lent at the Time and Place
 “ of such Play ; to any so gaming or betting,
 “ &c. shall be void : And where Mortgages,
 “ &c. shall be of Lands, &c. or shall incum-
 “ ber or affect the same, &c. such Mortgages,
 “ &c. shall devolve upon such Persons as should
 “ or might have, or be entitled to such Lands,
 “ &c. in Case the Grantor thereof had been
 “ dead ; and as if such Mortgages, &c. had
 “ been made to the Persons intituled after the
 “ Decease of the Person incumbring ; And all
 “ Grants or Conveyances made to hinder such
 “ Lands, &c. from devolving upon such Per-
 “ sons, shall be deemed fraudulent and void.

“ Any Person playing at Cards, Dice, &c.
 “ or Betting, and losing the Value of ten
 “ Pounds. and paying the same, or any Part,
 “ may, within three Months, sue for and re-
 “ cover the Money so lost from the Winner,
 “ with Costs, &c. in which Action it shall be
 “ sufficient to alledge, that the Defendant is
 “ indebted to the Plaintiff, or received for his
 “ own Use, &c. the Money so lost and paid,
 “ without setting forth the special Matter ; and
 “ in Case the Loser do not sue, any other
 “ Person may, and recover the same, and tre-
 “ ble the Value, with Costs, against such Win-
 “ ners : One Moiety to the Informer, the o-
 “ ther to the Poor of the Parish.

“ Every Person liable to be sued, shall an-
 “ swer upon Oath such Bills as shall be pre-
 “ ferred against him, for discovering the Sums
 “ of Money, or other Thing, so won at Play.

“ The Person who shall discover and repay,
 “ shall

shall be indemnified from any other Punishment.

“ Any Person who shall by Fraud, &c. in playing at Cards, Dice, &c. or by bearing a Share in the Stakes, &c. or by betting, win any Sum of Money, &c. above ten Pounds, at one Time or Setting, such Person so convicted on *Indictment*, &c. shall forfeit five Times the Value of the Sums, or other Thing so won, and be deemed infamous, and suffer such corporal Punishment as in Cases of wilful Perjury; any two or more Justices may cause such Persons to be brought before them, as they have Cause to suspect to have no visible Estate, &c. to maintain themselves by; and if they do not make it appear, that the principal Part of their Expences is not maintained by Gaming, then such Justices shall require Securities for their good Behaviour for twelve Months, and in Default commit them to Gaol.

“ Such Persons finding Sureties, and playing or betting, during the Time, for the Value of twenty Shillings, shall forfeit their Recognizance.

“ If any Person shall assault and beat, or challenge to fight any other Person on Account of Money won by Gaming, &c. being convicted thereof, he shall forfeit all his Goods, &c. and suffer Imprisonment for two Years.

“ This Act shall not extend to prevent any Person from Gaming within any of her Majesty's Palaces of *St. James* or *Whitehall*, during her Majesty's actual Residence at either of the said Palaces, or in any other Royal Palace where she shall be resident, so as such Playing be not in any House, &c. the Freehold or

T

“ Inheritance

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“ Inheritance whereof is out of the Crown, and
 “ so as such Playing be for ready Money only.

By the Stat. 18. Geo. 2. c. 34. it is enacted that if any Person shall win or lose at Play, or by betting at any one Time, the Sum or Value of ten Pounds, or within the Space of twenty-four Hours, the Sum of twenty Pounds, such Person shall be liable to be indicted for such Offence within six Months after it is committed, either before His Majesty's Justices of the King's Bench, Assises, Gaol Delivery, or Grand Sessions; and being thereof convicted, shall be fined five Times the Value of the Sum so won or lost; which fine (after such Charges as the Court shall judge reasonable allowed to the Prosecutors and Evidence out of the same) shall go to the Poor of the Parish or Place where such Offence shall be committed.

Provided that if any Person so offending shall discover any other Person so offending, so that such Person shall be thereupon convicted, the Person so discovering shall be discharged and indemnified from all Penalties, by Reason of any such Offence, if such Person so discovering hath not been before convicted thereof, and shall be admitted as an Evidence to prove the same.

See Statute 12. Geo. 2. c. 28. & 13. Geo. 2. c. 19.

G U N S, &c.

For keeping a Gun to destroy the
 Game.

Worcestershire: **T**HE Jurors for our Lord the King upon their Oath present,
 That Henry Vincent, late of the Parish of Ombersly, in the County of Worcester, Yeoman, on the
 the

the fourth Day of *September*, in the fifth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great-Britain*, &c. then not having Lands and Tenements, or any other hereditary Estate, in his own Right, or in Right of his Wife, of the clear yearly Value of One hundred Pounds by the Year, or for the Term of his Life, nor having a Lease or Leases for ninety-nine Years, or for a longer Term, of the clear yearly Value of One hundred and fifty Pounds, nor then being Son and Heir apparent of an Esquire, or any other Person of a higher Degree, nor then being Owner or Keeper of any Forest, Park, Chace or Warren : Nevertheless, the said *Henry Vincent*, on the said fourth Day of *September*, in the Year aforesaid, and divers other Days and Times, as well before as after, at the Parish of *Ombersly* aforesaid, in the County aforesaid, unlawfully and contemptuously had and kept, and still hath and doth keep a certain Gun for destroying the Game of this Kingdom, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 22. & 23. Car. 2. c. 25. Persons not being qualified in the Manner recited in the above Indictment, are declared to be Persons, by the Laws of this Realm, nor allowed to have or keep for themselves, or any other Person or Persons, any Guns, Bows, Greyhounds, Setting-Dogs, Ferrets, Cony-Dogs, Lurchers, Hayes, Nets, Lowbels, Hare-pipes, Snares, or other Engines, but are thereby prohibited to have, keep, or use the same.

HOUSE-BREAKING.

For breaking a House in the Day-Time with Intent to Steal.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. John, Wapping*, in the County of *Middlesex*, Labourer, on the first Day of *November*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, &c.* about the Hour of ten in the Forenoon of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling House of *B. C.* there situate unlawfully did break and enter, with Intent the Goods, Chattles, and Monies in the same Dwelling House, then and there being, feloniously to steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

If a Man breaks a House, in the Day Time, with an Intent to steal, but steals nothing, this is no Felony; but otherwise, in Case of breaking the House in the Night, with Intent to steal, for that is Burglary. 11 Co. Rep. 31. Poulter's Case.

IMBEZZLEMENT. 277

*For inticing a Servant to Imbezil his
Master's Goods.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Jonathan Burton*, late of the Parish of *St. Mary le bone*, in the County of *Middlesex*, Glover, on the twenty-seventh Day of *August*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, falsely, subtilly and unlawfully did solícite, incite, and perswade one *John Norris*, Apprentice to *William King* of the same Parish and County, Baker, secretly and clandestinely to take and imbezle divers Goods and Chattles of the said *William King*. and to give and deliver such Goods and Chattles to him the said *Jonathan Burton*, and that the said *Jonathan Burton*, afterward, to wit, the said twenty-seventh Day of *August*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, three Bushels of Flower, of the Value of fifteen Shillings, of the Goods and Chattels, of the said *William King*, by the said *John Norris*, then lately before on the same Day and Year above-mentioned, by the Solicitation, Incitement, and Persuasion of the said *Jonathan Burton*, taken and imbezled then and there falsely, knowingly, subtilly, and unlawfully did receive, obtain, and have of and from the said *John Norris*, to the great Damage of the said *William King*, to the evil Example of all others, in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

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This is a very great Offence, and in its Nature Felony, provided the Principal had been indicted for Felony, the Offender might have been prosecuted as an Accessary before the Fact, but prosecuting him for a Misdemeanor, is done to spare the Principal from the Felony.

This Offence has frequently been punished by Fine and Imprisonment in the House of Correction to hard Labour.

LIBELS.

For printing and publishing a Libel against Peers, Bishops, and Commons.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. R.* late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex*. Printer, being a malicious and seditious Man, and of a depraved Mind, and wicked and diabolical Disposition, and also deceitfully, wickedly, and maliciously contriving and betting against the Most Honourable Sir *Robert Walpole*, Knight of the Most Noble Order of the Garter, Chancellor and under Treasurer of the *Exchequer* of our said Lord the King, and one of the Commissioners of our said Lord the King, for executing the Office of Treasurer of the *Exchequer* of our said Lord the King, and one of the Privy Council of our said Lord the King, to detract, scandalize and vilify, and to represent the said Sir *Robert Walpole*, as an unjust Officer and Minister, and little fit to be used and intrusted by our said Lord the King in the weighty Affairs of this Kingdom, and also to bring the said Sir *Robert Walpole*, (as much as in him the said *W. R.* lay)

lay) into an ill Opinion, Hatred, and Contempt, not only with all his Majesty's Leige Subjects, but also with our said Lord the King himself, and also deceitfully, wickedly, and maliciously contriving and abetting to detract, scandalize, and vilify the Peers of this Realm, the Bishops of the Church of *England*, by Law established, and the Members of the Honourable House of Commons of this Kingdom, and to represent the said Peers Bishops, and Members of the House of Commons as corrupt Persons, and to bring them into great Scandal, Infamy, and Hatred with all the Leige Subjects of our said Lord the King and for that Purpose, did, on the sixth Day of *July*, in the sixth Year of the Reign of our said Sovereign Lord *George the Second*, now King of *Great-Britain, France, and Ireland*, Defender of the Faith, with Force and Arms, at the said Parish of *St. Martin in the Fields*, in the said County of *Middlesex*, wickedly, and maliciously print and publish, and cause to be printed and published a certain scandalous and seditious Libel, intituled, *Robin's Reign, or Seven's the Main, being an Explanation of Caleb Danvers's, seven Egyptian Hieroglyphicks prefixed to the seven Volumes of the Craftsman, The Dye is flung*; in which said Libel of and concerning the said Sir *Robert Walpole*, and the said Peers, Bishops, and Commons of this Kingdom, and also of and concerning the Votes given by the said Peers, Bishops, and Commons is contained, among other Things, divers scurrilous, feigned, scandalous, seditious, and malicious Matters, according to the Tenor following (to wit) see R---t (meaning the said Sir *Robert Walpole*) C---s (meaning the said Members of the said House of Commons of this Kingdom) L---ds (meaning the said Lord of this Kingdom) and B-----s (meaning the said Bishops of the Church of *England* by Law established) buy, speak then *Spectator* is Corruption high; Mark well

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the Visage of each slavish Tool; The Blockhead, Hypocrite, and gawdy Fool; 'Tis these great Men (meaning the said Peers, Bishops, and Members of the said House of Commons) who give our Wealth away; Borrow in P — s (meaning Pensions) but in V. — s (meaning the Votes of the said Lords, Bishops, and Commons) they pay; Like Judas thus for Gold betray the State; His Crimes they (again meaning the said Lords, Bishops, and Commons) share, And may they (again meaning the said Lords, Bishops, and Commons) share his Fate; to the great Scandal and Infamy of the said Sir Robert Walpole, and also of the said Peers, Bishops, and Members of the said House of Commons of this Kingdom, in Contempt of our said Lord the King, and of his Laws to the evil and pernicious Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For sending a scandalous and libellous Letter to a Person.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *George Dickenson*, late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Gent. being a Person of evil Name, Fame, and dishonest Conversation, on the seventh Day of *September*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. and divers others Days and Times before, at the Parish aforesaid, in the County aforesaid, wickedly contriving and intending one *Jameson Toft*, Gent. to deprive of his good Name, Fame and Credit, and him the said *Jameson Toft* to bring to the greatest Hatred,

Hatred, Scandal, Contempt and Infamy with all the liege Subjects of our said Lord the King; and such Contrivance, Intention and Practice to compleat, perfect and render effectual, he the said *George Dickenson*, on the said seventh Day of *September*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, a certain false, scandalous, and libellous Writing against the said *Jameson Toft*, falsely, maliciously and scandalously did frame and make, and in the Name of him the said *George Dickenson* then and there did cause to be writ and published, in the Form of a Letter, directed to him the said *Jameson Toft*; the Tenor of which said Writing is as followeth: “ To *Jameson Toft*, These, Scoundrel, meaning the said *Jameson Toft*) It may “ not be amiss to acquaint you, (meaning him “ the said *Jameson Toft*) as the Time draws “ near, you (meaning the said *Jameson Toft*) may “ be preparing yourself (meaning again the “ said *Jameson Toft*) for a Trial at *Chelmsford*, “ for stealing the Turkies out of Mr. *Lin*’s “ Yard, when I (meaning himself the said *George Dickenson*) hope you’ll meet your deserved “ Fate as to that Fact, and wish it had been of “ a higher Nature, that you (meaning again the “ said *Jameson Toft*) might have had Judgment “ of Death, and been hanged, you Rogue, “ Murderer and Thief, (meaning that he the said “ *Jameson Toft* was a Rogue, Murderer and “ Thief) so that I (meaning himself, the said “ *George Dickenson*) might have made a Holiday to see you, (meaning the said *Jameson Toft*) sing a Neck Psalm, and perish according to Law, you Helhound. (meaning the “ said *Jameson Toft*.) Subscribed *Geo. Dickenson*. “ (meaning himself, the said *George Dickenson*,”)

And

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And that he the said *George Dickenson*, with Intention to scandalize the said *Jameson Toft*, and to bring him to Contempt, the said false, malicious and scandalous libellous Writing, so as aforefaid framed and made, afterwards, to wit, on the said seventh Day of *September*, in the Year aforefaid, and divers other Days and Times then aforefaid, at the Parish aforefaid, in the County aforefaid, to divers Subjects of our said Lord the King, then and there present, fallily, maliciously and scandalously did deliver, and cause to be delivered, to the great Scandal, Infamy and Damage of him the said *Jameson Toft*, to the evil Example of all others in the like Case offending, and against the Peace of our Lord the King, his Crown and Dignity.

A Libel, Libellus, literally signifieth a little Book, but by Use it is the original Declaration of an Action in Civil Law, 2 H. 5. 3. & 2 E. 6. 13. It signifies also a criminous Report of any Man cast abroad, or otherwise unlawfully published, and then called Famofus Libellus; and this is either in Scriptis, aut sine Scriptis: In Scriptis is, when an Epigram, or other Writing, is composed or publish'd to any other's Disgrace, which may be done Verbis aut Cantilenis; as where this is maliciously repeated or sung in the Presence of others; or else Tradiione, when the Libel, or any Copy of it, is delivered over to scandalize the Party. Famofus Libellus sine Scriptis may be twofold; 1. Picturis, as to paint the Party in a shameful and ignominious Manner; or 2. Signis, as to fix a Gallows, or other ignominious Sign at the Door of the Party, or elsewhere. Co. 5. Rep. de Famofis Libellis.

Printing or Writing any Thing, either to blacken the Memory of the Dead, or the Reputation of

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of one who is alive, and to expose him to publick Hatred, Contempt, or Ridicule is a Libel.

N. B. You may read of Libels, sufficient to answer every Purpose, in 1 Hawk. Pleas of the Crown, cap. 73.

LOTTERIES.

For setting up a Lottery.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Ralph Banks*, late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Fan-painter, and *Elizabeth* his Wife, being ill disposed Persons, little regarding the Laws and Statutes of this Realm, and not fearing the Pains and Penalties therein contained, on the ninth Day of *April*, in the eighth Year of the Reign of our Sovereign Lord *George the Second King of Great-Britain, &c.* at the Parish aforesaid, in the County aforesaid, did publickly set up and exercise a certain Lottery, for the Disposal of diverse Goods, Wares and Merchandises; and the said *Ralph Banks*, and *Elizabeth* his Wife did, then and there expose the said Lottery to be played at and drawn at, by the Subjects of our said Lord the King, for the Sum of Sixpence, paid to them the said *Ralph Banks*, and *Elizabeth* his Wife, for each Ticket in the said Lottery, in Contempt of our said Lord the King and his Laws, to the common Nuisance of all the Subjects of our said Lord the King, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and
against

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against the Peace of our said Lord the King his Crown and Dignity.

By Stat. 10. & 11. W. 3. c. 17. *It is enacted that Many mischievous and unlawful Games called Lotteries, have, for divers Years last past, been set up in most of the eminent Cities and Towns in this Kingdom, by Colour of several Patents under the Great Seal for the said Lotteries, or some of them; it is enacted and declared, That all such Lotteries, are common public Nuisances, and that all grants, Patents, and Licences for Lotteries, are void and against Law.*

That after the twenty-ninth of December, One thousand six hundred and ninety-nine, none shall publickly or privately exercise, keep open, shew, or expose to be played at, drawn at, or thrown at, or shall draw, play or throw at any such Lottery, either by Dice, Lots, Cards, Balls, or any other Numbers or Figures, or any other Ways whatsoever; and every Person so exercising, &c. any such Lottery, &c. shall, for every such Offence, forfeit five hundred Pounds, one third to the King, another to the Poor, and the other (with double Costs) to the Informer or Prosecutor; and the Offenders shall likewise be prosecuted as common Rogues. Every Person that shall play, throw, or draw at any such Lottery, &c. shall for every Offence, forfeit twenty Pounds to the Uses aforesaid.

By the Stat. 8. Geo. 1. c. 2. *Every Person who shall erect, set up, continue or keep any Office or Place, under the Denomination of Sales of Houses, Lands, Advowsons, Presentations to Livings, Plate, Jewels, Ships, Goods, or other Things, for the Improvement of small Sums of Money; or shall sell or expose to Sale, any Houses, &c. by Way of Lottery, or by Lots, Tickets, Numbers,*
or

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or Figures; or who shall make, print, advertise or publish, or cause to be made, printed, advertised or published, Proposals or Schemes for advancing of small Sums of Money by several Persons, amounting in the Whole to large Sums, to be divided among them, by the Chances of the Prizes in some publick Lottery or Lotteries; or shall deliver out, or cause or procure to be delivered out, Tickets to Persons advancing such Sums, to intitle them to a Share of the Money so advanced, according to such Proposals or Schemes, or shall make, print, or publish, or cause to be made, &c. any Proposal or Scheme of the like Nature, under any Denomination or Title whatsoever, and shall be thereof convicted on the Oath of one or more credible Witnesses, by two or more Justices of the Peace of the County, &c. where such Offence shall be committed, or the Offender found; the Person so convicted, shall, for every Offence (over and above any former Penalties inflicted by any Act of Parliament made against private and unlawful Lotteries) forfeit five hundred Pounds, one third to the Crown, one other to the Informer, and the remaining third to the Poor of the Parish where the Offence shall be committed, to be levied by Distress and Sale of the Offender's Goods, by Warrant of the Justices before whom convicted; and shall also for every such Offence be committed by the said Justices to the County Gaol without Bail or Mainprize for one whole Year, and from thence till the said five hundred Pounds be fully paid: But Persons aggrieved by the Determination of such Justices, may appeal to the next Quarter Sessions for the County &c. whose Judgment shall be final.

Adventurers in such Sales and Lotteries, &c. shall forfeit double the Sum contributed to the same.

8 Geo.

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§ Geo. 1. c. 2. See the Stat. 12. Geo. 2. c. 28.
13. Geo. 2 c. 19. 18. Geo. 2. c. 34.

N A V A L S T O R E S.

*For having Naval Stores found in
one's Custody.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A.Y.* late of the Parish of *St. John Wapping*, in the County of *Middlesex*, Labourer, and *L.K.* late of the same, Labourer, on the twelfth Day of *June*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second King of *Great-Britain*, &c. being Persons of evil Name and Fame, and dishonest Conversation, and then or at any Time before, not being Contractors, nor either of them then or before being a Contractor with the principal Officers or Commissioners of our said Lord the King, of the Navy, Ordinance, or Victuallers, for the Use of our said Lord the King, nor then or at any Time before retained or employed by any such Contractor for that Use, with Force and Arms, at the Parish aforesaid, in the County aforesaid, then and there unlawfully had in the Custody and Possession of them the said *A.Y.* and *L.K.* one Cable-rope, containing in Length seventy Fathom, and in Thickness thirteen Inches, of the Value of forty Pounds of lawful Money of *Great Britain*, which said Cable-rope, then and there was wrought with the white Thread, laid the contrary Way, (being the Sign with which the Cable-ropes, and other such warlike and naval Stores of our said Lord the

the

NAVAL STORES. 287

the King, then and before usually were, and yet are marked) against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do farther present, That the said Cable-rope (being of the Goods and warlike and naval Stores of our said Lord the King, and so as aforesaid wrought and marked) then and there was found in the Custody and Possession of them the said *A.Y.* and *L.K.* (they the said *A.Y.* and *L.K.* not being such Contractors, nor either of them being such Contractor, nor retained or employed, nor either of them retained or employed, as aforesaid, as by the Statute in such Case made and provided is required) to the Diminution of the warlike and naval Stores of our said Lord the King, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King his Crown and Dignity.

One piece of Canvas containing twenty Yards in Length, of the Value of If Canvas. —which said Piece of Canvas was marked with a blue Streak in the Middle (being the Mark with which the Canvas and other such warlike, &c. as above.

One Iron Bolt of the Value of three Shillings, which said Iron Bolt was marked with the broad Arrow (being the Mark with which the Iron Bolts and other such like warlike &c. as before.

If Iron or Brass marked with the broad Arrow.

If many Sorts of Goods were found in their Custody, then repeat them all thus, with which the Iron Bolt,

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Bolt, Nails, Hinges, Padlocks, and other such like, &c. as before.

By Stat. 9. & 10. W. 3. c. 41. § 2. 'tis enacted, That such Person or Persons in whose Custody, Possession, or keeping, such Goods or Stores (mark'd as in the Statute is mentioned) shall be found, not being employed, as in the Statute is likewise mentioned, and recited in the above Indictment, and such Person or Persons who shall conceal such Goods or Stores, mark'd as aforesaid, being indicted and convicted of such Concealment, or of the having such Goods found in his Custody, Possession, or Keeping, shall forfeit such Goods, and the Sum of two hundred Pounds, together with the Costs

By Stat. 9. Geo. 3. c. 8. § 3. & 4. the Penalty of this Act may be mitigated.

of Prosecution; one Moiety to His Majesty, and the other Moiety to the Informer, to be recovered by Action of Debt, Bill, Plaint, or Information in any of his Majesty's Courts of Records, at Westminster, and shall also suffer Imprisonment, until Payment and Performance of the said Forfeiture, unless such Person shall upon his Trial, produce a Certificate under the Hands of three or more of his Majesty's principal Officers or Commissioners of the Navy, Ordinance, or Victuallers, expressing the Numbers, Quantities, or Weight of such Goods as he or she shall be then indicted for, and the Occasion and Reason of such Goods coming to his or their Hands and Possession.

By the same Statute any Person or Persons, as shall make any Stores of War or naval Stores whatever, with the Marks usually used to, and marked upon his Majesty's said Warlike and Naval, or Ordinance Stores, shall forfeit such Goods, and the Sum of two hundred Pounds together with Costs of Suit, to be recovered as aforesaid.

By

By Stat. 9. Geo. 1. c. 8 §. 4. *It shall be lawful for any Judge, Justice or Justices, before whom any Offender or Offenders shall be convicted, to mitigate the Penalty for the same, as he or they shall see Cause, and to commit the Offenders*

so convicted to the common Gaol of the County, or Place where the Offence shall be committed, there to remain without Bail or Mainprize, until Payment be made of the Penalty and Forfeiture imposed by this or the said former Act, or mitigated as aforesaid, or to punish such Offenders corporally, by causing him, her or them to be publickly whipped, or committed to some public Workhouse, there to be kept to hard Labour, for the Space of six Months, or a less Time, as to such Judge, Justice, or Justices, in his or their Discretion shall seem meet.

The Penalty mentioned in the 9 and 10. W. 3. cap. 41. Sect. 2. mitigated.

N U S A N C E.

Against a Butcher for using his Shop as a Slaughter-House in a public Market.

London. **T**HE Jurors for our Lord the King upon their Oath present, That *Hugh Halsey*, late of *London*, Butcher, on the twelfth Day of *May*, in the Second Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. and divers other Days and Times then before, at *London*, to wit, in the Parish of —, in the Ward of —, in *London* aforesaid, in a certain Shop of him the said *Hugh Halsey*, situate and being in a common Market, there called *Leaden-*

ball Market (the said Market being a common Passage for all the Subjects of our said Lord the King with their Goods, Chattels, and Merchandizes to go, return, and pass at their Will) did unlawfully and injuriously kill and slay, and cause to be killed and slayed, ten Lambs, and the Excrements, Blood, Intrails, and other Filth coming from the said Lambs did then, and the said other Days and Times, there cause and permit to lie and remain in the said Shop for a long time, whereby divers filthy and unwholesome Smells from the Excrements, Blood, Intrails, and other Filth coming from the Lambs as aforesaid, then and the said other Days and Times there did arise, whereby the Air there was greatly corrupted and infected, to the great Damage and common Nuisance not only of all the Liege Subjects of our said Lord the King near their inhabiting and dwelling, but also of all other Liege Subjects of our said Lord the King, in, by, and through the said common Market and Passage aforesaid going, returning, passing, and labouring, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King his Crown and Dignity.

For keeping a Disorderly House:

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. H.* late of the Parish of *St. Giles* in the *Fields*, in the County of *Middlesex*, Labourer, on the tenth Day of *April*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. and divers other Days and Times between that Day and the

the Day of the taking this Inquisition, with Force and Arms, at the Parish aforesaid, in the County aforesaid, did keep and maintain, and yet doth keep and maintain, a certain common, ill-governed, and disorderly House, and in his said House, for his own Lucre and Gain, certain evil and ill-dispos'd Persons, as well Men as Women, of evil Name and Fame, and of dishonest Conversation, to frequent and come together, then, and the said other Days and Times, there unlawfully and wilfully did cause and procure; and the said Men and Women, in his said House, at unlawful Times, as well in the Night as in the Day, then and the said other Days and Times, there to be and remain, drinking, tippling, whoring, and misbehaving themselves, unlawfully and wilfully did permit, and yet doth permit, to the great Damage and common Nuisance of all the Subjects of our said Lord the King, and against the Peace of our said Lord the King, his Crown and Dignity.

The Offence of keeping a Bawdy-house (a) comes under the Cognizance of the Temporal Law as a common Nuisance, and a (b) (a) 1 Hawk. c. 74. Sect. 1. Feme Covert is punishable for this Offence as much as if she were Sole. (b) 1 Hawk. c. 1. Sect. 12.

A Lodger who keeps only a single Room for the Use of Bawdry, is indictable for keeping a Bawdy-house, but the bare Solicitation of Chastity is not indictable. 1 Hawk. c. 74. Sect. 3. 1 Salk. 382.

That Offenders of this Kind are punishable not only with Fine and Imprisonment, but also with such infamous Punishment as to the Court in their Discretion shall seem proper. 1 Hawk. c. 74. Sect. 4.

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For digging a Hole in the King's Highway.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. F.* late of the Parish of *St. Ann* within the Liberty of *Westminster*, in the County of *Middlesex*, Yeoman, on the fourth Day of *April*, in the third Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in a certain Street, being the King's common Highway there called *Tyburn Road*, otherwise *Oxford-street* (used for all the King's Subjects with their Horses, Coaches, Carts, and Carriages to go, return, ride, pass and labour at their Will and Pleasure) unlawfully and injuriously did dig, and cause to be digged, a certain Pit, containing in Circumference fifteen Feet, and in Depth thirteen Feet, and the same Pit so as aforesaid digged and caused to be digged in the Street and High-way aforesaid, from the said fourth Day of *April*, in the Year aforesaid, until the ninth Day of the same Month in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did continue; by reason whereof the King's Subjects, during the Time aforesaid, could not go, return, pass, ride and labour with their Horses, Coaches, Carts, and Carriages, in, by, and through the same Street and High-way, as they were wont and ought to do, without great Peril and Danger of their Lives, to the great Damage and common Nufance of all the Liege Subjects of our said Lord the King, in, by, and through the same Street and Highway, going, returning
passing,

passing, riding and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

Against Night-Men for laying Soil in the Streets.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. H.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Labourer, and *H. A.* late of the same, Labourer, on the thirtieth Day of *April*, in the fourth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in the common Street and King's High-way, there called *Portland Street*, unlawfully and injuriously did pour out, place, and leave, and caused to be poured out, placed, and left, a great quantity of Dung, human Excrements, and other Filth, by which divers hurtful and unwholsome Smells, from the said Dung, Excrements, and other Filth, did then and there arise, and thereby the Air there became and was greatly corrupted and infected, to the great Damage and common Nufance of all the Liege Subjects of our said Lord the King, in, by, and through the same Street and King's High-way going, returning, passing, riding and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

For placing empty Drays in a common Street whereby the Passage was obstructed for divers Hours in each Day.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That *Henry Farrell*, late of the Parish of *St. Ann*, within the Liberty of *Westminster*, in the County of *Middlesex*, Labourer, on the eighth Day of *March*, in the ninth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. and divers other Days and Times between that Day and the Day of the taking this Inquisition, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the King's common High-way there called *Lemon-street*, unlawfully and injuriously did put and place three empty Drays, and did then, and the said other Days and Times, there unlawfully and injuriously permit and suffer the said empty Drays to be and remain in the King's common High-way aforesaid, by the Space of divers Hours in each Day, whereby the King's common High-way aforesaid then, and the said other Days and Times, by the Space of divers Hours in each Day was obstructed and straitened, so that the Subjects of our said Lord the King could not then, and the said other Days and Times, go, return, pass, ride, and work with their Horses, Coaches, Carts, and Carriages, in, by, and through the King's common High-way aforesaid, as they ought and were wont, to the great Damage and common Nuisance of all his Majesty's Liege Subjects, going, returning, passing, riding, and working, in, by, and through the King's common High-way aforesaid, to the
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evil Example of all others in the like Case of-
fending, and against the Peace of our said Lord
the King, his Crown and Dignity.

*For digging a Horse-pond, and erect-
ing a Cistern in a common Passage.*

Middlesex. **T**HE Jurors for our Lord the
King, upon their Oath present,
That *William Colcott*, late of the Parish of *St.
Mary Matfellow*, otherwise *Whitechappel*, in the
County of *Middlesex*, Yeoman, on the twenty-
second Day of *November*, in the fifth Year of
the Reign of our Sovereign Lord *George* the
Second, King of *Great Britain*, &c. with Force
and Arms, at the Parish aforesaid, in the County
aforesaid, to wit, in a certain Passage and com-
mon Foot-way, there called *Boars-head Yard*,
unlawfully and injuriously did dig and cause to
be digged, a certain Horse-pond, containing in
Length twelve Feet, and in Breadth three Feet,
and that the said *William Colcott*, on the said
twenty-second Day of *November*, in the Year
aforesaid, with Force and Arms, at the Parish
aforesaid, in the County aforesaid, to wit, in
the same Passage and common Foot-way, un-
lawfully and injuriously did erect, put and place,
and cause to be erected, put and placed, a
certain wooden Cistern, containing in Length
five Feet, and in Breadth twenty Inches,
and that the said *William Colcott*, the said
Horse-pond, so as aforesaid, dug, and also the
said wooden Cistern, so as aforesaid, erected, put
and placed, from the said twenty-second Day of
November, in the Year aforesaid, until the Day
of the taking of this Inquisition, with Force

and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did continue, and yet doth continue, by which the same Passage and common Footway, by the whole Time aforesaid, was so obstructed, and was, and yet is so dangerous, that the liege Subjects of our said Lord the King, through the same Passage and common Footway, could not, nor yet can go, return and pass, so freely and safe as they ought and were wont, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Passage and common Footway, going, returning and passing, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Sabbath Breaker and Prophaner of the Lord's Day, in keeping open Shop.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *L. H.* late of the Parish of *St. Clement Danes*, in the County of *Middlesex*, Butcher, on the sixteenth Day of *January*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second King of *Great-Britain*, &c. and continually afterward, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, was, and yet is a common Sabbath-Breaker and Prophaner of the Lord's Day, commonly called *Sunday*, and that the said *L. H.* on the said sixteenth Day of *January*, in the Year aforesaid, being the Lord's Day, and on divers other Days and Times, being the Lord's Days, during the Time aforesaid, at the Parish aforesaid, in the County

County aforesaid, in a certain Place there called *Clare-Market*, did keep a common, Public, and open Shop, and in the same Shop did then and on the said other Days and Times, there, openly and publicly sell and expose to Sale, Flesh-meat, to divers Persons. to the Jurors aforesaid as yet unknown, to the evil Example of all others in the like Case offending, to the common Nuisance of all the Liege Subjects of our said Lord the King, and against the Peace of our said Lord the King, his Crown and Dignity.

Butchers, &c. using their Trade on the Lord's Day, are to be proceeded against in a Summary Way, before a Justice of Peace, and upon Conviction, are fineable six Shillings and Eight-Pence : But this Punishment not being severe enough to deter the Offenders, the Method of indicting them for Nusances, in keeping open Shop on the Lord's Day, is constantly made Use of at Sessions ; for the first Offence they are generally fined thirteen Shillings and Fourpence, and so often as they offend afterwards, their respective Fines are doubled.

For putting and placing two Carts for the selling Pease in a public Street.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That K. L. late of the Parish of *St. Mary Mat-fellon*, otherwise *White-chappel*, in the County of *Middlesex*, Labourer, on the twelfth Day of *June*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great-Britain*, &c. with Force and Arms, at the Parish aforesaid,
in

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in the County aforesaid, to wit, in the common and public Street there, called *Carnaby-street* (the same Street being the common King's Highway, from the Time whereof the Memory of Man is not to the contrary, used by all the Subjects of our said Lord the King, and his Predecessors, with their Horses, Coaches, Carts, and Carriages, to go, return, pass, and ride at their Will and Pleasure) unlawfully and injuriously did put and place, and cause and procure to be put and placed, two Carts, for the felling and exposing to Sale, Pease in the Shells, and the said Carts in the same Street and common Highway, on the Day and Year aforesaid, for the Space of three Hours, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did cause to be and remain, whereby the said Street and common Highway, during the Time aforesaid, was very much obstructed and straitened, so that the liege Subjects of our said Lord the King, could not through the same Street and common Highway, during the Time aforesaid, go, return, pass, ride, and labour with their Horses, Coaches, Carts, and Carriages, as they ought, and were wont to do, to the great Damage, and common Nuisance of all the liege Subjects of our said Lord the King, in, by, and through the same Street and common Highway, going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For putting and placing two Cart-Loads of Dirt and other Filth in a common Foot-way.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *John Jones*, late of the Parish of *Stebunbeath*, otherwise, *Stepney* in the County of *Middlesex*, Labourer, on the eleventh Day of *April*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in a certain common Foot-way there, leading from that Part of *Mile-end-green*, which is in the Parish aforesaid, in the County aforesaid, towards and unto the parochial Church of the same Parish, in the said County, did, unlawfully and injuriously put, place and lay, and cause to be put, placed and laid, two Carts Load of Dirt and other Filth, and the said Dirt and Filth, in the said Foot-way, from the said eleventh Day of *April*, in the Year aforesaid, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did permit and suffer to be and remain, by Reason whereof, the Foot-way aforesaid, during the Time aforesaid, was, and yet is greatly obstructed and straitned, so that the Subjects of our said Lord the King, through the same Foot-way, could not, during the Time aforesaid, nor yet can go, return, pass and labour as they ought or were wont to do, to the great Damage and common Nuisance of all the Subjects of our said Lord the King, through the same Foot-way going, returning, passing and labouring, and against the
Peace

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the said common Streets and Highways going, returning and passing, and against the Peace of our said Lord the King, his Crown and Dignity.

For Boiling Bullocks Blood for making Colours.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Bateman*, late of the Parish of *St. Ann*, within the Liberty of *Westminster*, in the County of *Middlesex*, Colour-man, on the first Day of *July*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. and on divers other Days and Times, between that Day and the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, in a certain Building belonging to the Dwelling-house of the said *John Bateman*, there situate and being, and also near the Dwelling-houses of divers Subjects of our said Lord the King, and near divers publick Streets and common Highways there, did unlawfully boil, and cause to be boiled, a great Quantity of Bullocks Blood, and other Filth for the making and mixing of Colours, whereby divers noisom and unwholsom Smells, on the Day and Year aforesaid, and the said other Days and Times during the Time aforesaid, at the Parish aforesaid, in the County aforesaid, did from thence arise, so that the Air there was thereby greatly corrupted and infected, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, not only there inhabit-
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ing and residing, but also going, returning, and passing through the said Streets and Highways, and against the Peace of our said Lord the King, his Crown and Dignity.

For stopping up an ancient Water-course, whereby the Water overflowed into the Highway, and damaged the same.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Coleman*, late of the Parish of *Edmonton*, in the County of *Middlesex*, Yeoman, on the twenty-sixth Day of *April*, in the fifth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great-Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, a certain ancient Water-course, adjoining to the King's common Highway, within the same Parish, leading from the Town of *Enfield*, in the County aforesaid, towards, and unto the City of *London*, with Gravel and other Materials, unlawfully and injuriously did obstruct and stop up; and the said Water-course, so as aforesaid obstructed and stopped up, from the said twenty-sixth Day of *April*, in the Year aforesaid, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously hath continued, and still doth continue, by Reason whereof the Rain and Waters that were wont, and ought to flow and pass through the said Water-course, on the same Day and Year, and divers other Days and Times afterwards, between that Day and the Day of the taking

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taking of this Inquisition, did overflow and remain in the King's common Highway aforesaid, and thereby the same Way was, and yet is greatly hurt and spoiled, so that the liege Subjects of our said Lord the King, through the same Way, with their Horses, Coaches, Carts and Carriages, then, and on the said other Days and Times, could not, nor yet can go, return, pass, ride and labour, as they ought and were wont to do, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Highway going, returning, passing, riding and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

Against Scavengers for not cleansing the Streets.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St George the Martyr*, in the County of *Surry*, Broker, and *C. D.* late of the same, Silversmith, on the first Day of *January*, in the eighth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, &c.* then and long before being Scavengers within the said Parish, in the County aforesaid, duly elected by the Inhabitants of the said Parish diligently to supervise, (amongst other Things belonging to their Office) that all the Ways, Streets and Lanes, in the said Parish, in the said County, should be cleansed of Dirt and Filth : Nevertheless, the said *A. B.* and *C. D.* the Duty of their Office in this Part neglecting, on the said first Day of *January*, in the Year aforesaid, and at divers other Days and Times,

as well before as afterwards, at the Parish aforesaid, in the County aforesaid, the common Highways, Streets and Lanes within the Parish aforesaid did not cleanse, and cause to be cleansed of the Dirt and Filth aforesaid, but then, and the said divers other Days and Times aforesaid did permit, and still do permit the said Dirt and Filth to be, lie and remain in the said common Highways, Streets and Lanes within the Parish aforesaid, in the County aforesaid, to the great Damage and common Nuisance, as well of all the liege Subjects of our said Lord the King there Inhabiting and residing, as of all other liege Subjects of our said Lord the King, there going, passing and labouring, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

*Against Rakers for neglecting to cleanse
the Streets.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *Thomas Lee*, late of the Parish of *St. Andrew Holbourn*, in the County of *Middlesex*, Labourer, on the fifth Day of *April*, in the tenth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. and long before, was, and yet is, one of the Rakers for the Liberty of *Saffron-Hill*, *Hatton-Garden* and *Ely Rents*, within the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex* aforesaid, and during the whole Time aforesaid did take upon himself to execute the Office of Raker within the same Liberty, and that the said *Thomas Lee*, on the said fifth Day of *April*,

in the Year aforesaid, until the Second Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did unlawfully and contemptuously neglect and refuse to carry, and cause to be carried away the Dust, Dirt, Ashes, Filth, and other Soil from and out of the Streets, Lanes, Alleys and Passages within the said Liberty, to the great Damage and common Nuisance, as well of all the liege Subjects of our said Lord the King there inhabiting and residing, as of all other liege Subjects of our said Lord the King there going, passing and labouring, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

'Tis enacted by the Stat. 2 W. and M. Stat. 2. c. 8. *That the Rakers, Scavengers, or other Officers thereunto appointed, every Day in the Week, except Sundays and other Holidays, shall bring, or cause to be brought, Carts, Dung-pots, and other fitting Carriages, into all their respective Parishes, Limits, Precincts, Streets, Charges and Divisions, where such Carts and Carriages can pass; and at, or before their Approach, by a Bell, Horn or Clapper, or otherwise, shall make distinct and loud Noise, and give Notice to the Inhabitants thereof of their coming, and make the like Noise, and give the like Notice in every Court, Alley or Place, into which the said Carts cannot pass, and abide and stay there a convenient Time, in such Sort, that all Persons concerned may bring forth their respective Dust, Dirt, Ashes, Filth and Soil to the respective Carts and Carriages, so staying as aforesaid; all which the said Rakers, Scavengers, or other Officers aforesaid, shall daily carry, or cause*

cause to be carried away, upon Pain to forfeit forty Shillings for every such Offence or Neglect respectively.

Against the Inhabitants of a Parish for not repairing an ancient Horse and Foot-way, commonly called a Pack and Prime-way.

Shropshire. **T**HE Jurors for our Lord the King upon their Oath present, That from the Time, of which the Memory of Man is not to the contrary, there was, and yet is, a certain common and ancient *Pack and Prime-way*, leading from the Village of *Long-Stanton*, in the County of *Salop*, to the Village of *Ditton-Priors*, in the same County, for all the liege Subjects of our now Lord the King, and his Ancestors, on Horseback and on Foot, to go, return, pass, ride, labour and drive their Cattle at their Will, and that a certain Part of the same common *Pack and Prime-way*, situate, lying and being within the Parish of *Long-Stanton*, in the County aforesaid, containing, in Length, three hundred Yards, and in Breadth, five Yards, on the first Day of *January*, in the eighth Year of the Reign of our Sovereign Lord *George the Second*, King of *Great Britain*, &c. and continually afterwards, until the Day of the taking of this Inquisition, at the Parish of *Long-Stanton* aforesaid, in the County aforesaid, was, and yet is very ruinous, miry, deep, broken, and in such Decay, for want of due Reparation and Amendment of the same, that the liege Subjects of our said Lord the King,

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by the same Way, with their Horses and Cattle, could not, during the Time aforesaid, nor yet can go, return, pass, ride and labour, as they ought and were wont to do, without great Danger of their Lives, and the Loss of their Goods, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding and labouring, and against the Peace of our said Lord the King, his Crown and Dignity. And that the Inhabitants of the same Parish of *Long-Stanton*, in the County aforesaid, the same common *Pack* and *Prime-way*, so as aforesaid being in Decay, ought to repair and amend, when, and so often as it shall be necessary.

For continuing a Hedge, formerly erected by a Person unknown, a-cross a Pack and Prime-Way, whereby the same was totally obstructed.

Shropshire. **T**HE Jurors for our Lord the King, upon their Oath present, That from the Time of which the Memory of Man is not to the contrary, there was, and yet is a certain common and ancient *Pack* and *Prime-Way*, leading from the Village of *Long-Stanton*, in the County of *Salop*, to the Village of *Ditton Priors*, in the same County, for all the liege Subjects of our now Lord the King, and his Ancestors, on Horseback and on Foot, to go, return, pass, ride, labour, and drive their Cattle at their Will, and that on the first Day of *July*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, King
of

of *Great-Britain, &c.* at *Ashfield*, in the Parish of *Ditton Priors* aforesaid, in the County aforesaid, a certain Hedge had then before been erected and fixed a-cross the same Pack and Prime-Way there, leading through a certain Land, called and known by the Name of the *Barn-Yard*, by a certain Person (to the Jurors aforesaid yet unknown) whereby the same Pack and Prime-Way was totally obstructed and stopped up, so that the liege Subjects of our said Lord the King, by the same Way, with their Horses and Cattle, could not then go, return, pass, ride and labour as they had been used and accustomed to do Time immemorial, and that *George Miles*, of *Ashfield*, in the said Parish of *Ditton Priors*, in the said County of *Salop*, Yeoman, the said Hedge, so as aforesaid, erected and fixed a-cross the same Pack and Prime-Way, from the said first Day of *July*, in the Year aforesaid, until the Day of the taking of this Inquisition, to wit, the sixteenth Day of *August*, in the Year aforesaid, with Force and Arms, at *Ashfield*, in the Parish of *Ditton Priors* aforesaid, in the County aforesaid, voluntarily and obstinately did uphold, maintain and continue, whereby the same Pack and Prime-Way, during the Time aforesaid, was, and yet is obstructed and stopped up, so that the liege Subjects of our said Lord the King, are still hindred in passing and repassing through the same Pack and Prime-Way as aforesaid, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding and labouring, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

*Against the Inhabitants of a Parish
for not repairing the King's common
Highway.*

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That from the Time whereof the Memory of Man is not to the contrary, there was, and yet is a certain common and ancient King's Highway, leading from the Town of *Hatfield*, in the County of *Hertford*, towards, and unto the City of *London*, used for all the liege Subjects of our said Lord the King, and his Predecessors, with their Horses, Coaches, Carts and Carriages, to go, return, pass, ride, and labour at their Will and Pleasure, and that a certain Part of the same King's common Highway, called ——— Lane, situate, lying, and being in the Parish of *Fryan Barnet*, in the County of *Middlesex*, containing in Length forty Yards. and in Breadth eight Yards, on the first Day of *November*, in the eighth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Gr at Britain*, &c. and continually afterwards, until the Day of the taking of this Inquisition, at the said Parish of *Fryan Barnet*, in the said County of *Middlesex*, was, and yet is very ruinous, miry, deep, broken, and in such Decay for Want of due Reparation and Amendment of the same, so that the liege Subjects of our said Lord the King, through the same Way, with their Horses, Coaches, Carts, and Carriages could not, during the Time aforesaid, nor yet can go, return, pass, ride, and labour, without great Danger of their Lives, and the Loss of their Goods, to the great Damage and common Nuisance of all
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the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity; and that the Inhabitants of the said Parish of *Fryan Barnet*, in the said County of *Middlesex*, the common Highway aforesaid, (so as aforesaid, being in Decay) ought to repair and amend, when, and so often as it shall be necessary.

A Presentment on the View of a Justice for not repairing a Highway.

Middlesex. **J** O H N L A R O C H E, Esq; one of the Justices of our Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Trespasses, and other Misdeeds committed in the same County, by Virtue of the Statute in such Case made and provided, upon his own proper Knowledge presents, That from the Time whereof the Memory of Man is not to the contrary, there was, and yet it a certain common and ancient King's Highway, leading from the Town of *Edgware*, in the County of *Middlesex*, towards and unto the City of *London*, used for all the liege Subjects of our said Lord the King, and his Predecessors, with their Horses, Coaches, Carts, and Carriages, to go, return, pass, ride, and labour at their Will, and that a certain Part of the same King's common Highway, commonly called the *Pissing-place*, situate, lying, and being in the Parish of *Hampstead*, in the same County, and on the East Side of the same Highway, containing in Length one hundred and twenty Yards, and in Breadth fifteen Feet, on the first Day of *July*, in the ninth Year of the

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Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. and continually afterward, until the thirteenth Day of *October*, in the Year aforesaid, at the said Parish of *Hampstead*, in the County aforesaid, was, and yet is very ruinous, miry, deep, broken, and in such Decay for Want of due Reparation and Amendment of the same, so that the liege Subjects of our said Lord the King, through the same Way, with their Horses, Coaches, Carts, and Carriages could not, during the Time aforesaid, nor yet can go, return, pass, ride, and labour, without great Danger of their lives and the Loss of their Goods, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity; and that the Inhabitants of the Parish of *Hampstead* aforesaid, in the County aforesaid, the common Highway aforesaid (so as aforesaid being in Decay) ought to repair and amend, when, and so often as it shall be necessary, in Testimony whereof, the said *John Larocbe*, to these Presents hath set his Hand and Seal, this thirtieth Day of *October*, in the Year aforesaid.

A Common Nuisance may be defined to be an Offence against the Public, either by doing a
 2 Rol. Ab. 83. *Thing which tends to the Annoyance of all the King's Subjects, or by neglecting to do a Thing, which the common Good requires.*

But Annoyances to the Interests of particular Persons are not punishable by a public
 2 Rol. Ab. 83. *Prosecution as common Nuisances, but are left to be redressed by the private Actions of the Parties aggrieved by them.*

No Indictment for a Nuisance can be good, which lays it to the Damage of private Persons only. 1 Sid. 209.

The erecting a Gate in a Highway is a Nuisance, because it interrupts the People in that free and open Passage which they before enjoyed, and were lawfully intitled to; but where such a Gate hath continued Time out of Mind, it shall be intended, that it was set up at first by Consent, on a Composition with the Owner of the Land on the laying out the Road, in which Case, the People had never any Right to a freer Passage than what they still enjoy. 1 Hawk. P. C. cap. 75. Sect. 9.

It hath been holden, that it is no common Nuisance to make Candles in a Town, because the Needfulness of them, shall dispence with the Noyfomness of the Smell: But the Reasonableness of this Opinion seems justly to be questionable, because whatever Necessity there may be that Candles be made, it cannot be pretended to be necessary to make them in a Town; and surely the Trade of a Brewer is as necessary as that of a Chandler, and yet it seems to be agreed, that a Brew-house, erected in such an inconvenient Place, wherein the Business cannot be carried on without greatly incommoding the Neighbourhood, may be indicted as a common Nuisance: And so in the like Case may a Glass-house or a Swine-yard. 2 Rol. Ab. 139. Pl. 2. Cont. 3 Mod. 138. 1 Hawk. P. C. cap. 75. Sect. 9. 2 Keb. 500. Vid. 1 Dan. Ab. 173. 174. Salk. 458. 460.

It is a common Nuisance to divert Part of a public navigable River, whereby the Current of it is weaken'd, and made unable to carry Vessels of the same Burthen as it could before. Also it hath been holden to be a common Nuisance to divide a House in a Town, for poor People to inhabit in, by Reason

whereof

Noy 103.

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2 Rol. Ab. 139. *whereof it will be more dangerous in
Pl. 3. the Time of Infection of the Plague.*

*Any one may pull down or other-
wise destroy a common Nuisance, as a
2 Rol. Ab. 1448. new Gate, or even a new House
Cro. Ca. erected in a Highway.*

*It hath been adjudged, that if a River be stopped,
to the Nuisance of the Country, and
57 Aff. 10. none appear bound by Prescription to
2 Rol. Ab. 137. clear it, those who have the Piscary,
and the neighbouring Towns, who have a common
Passage and Easement therein, may be compelled to
do it.*

*There must be an Indictment at the Suit of the
King, for all common and public Nu-
sances, Incroachments, Purprestures,
5 Rep. 73. and all Annoyances upon Highways,
1 Inst. 56. and all Annoyances upon Highways,
1 Rol. Ab. 391. though it is but a common Footway;
1 Vent. 208. and the Party may be fined and impris-
oned, for here no one shall have an Action on the
Case; for the Law avoideth multiplicity of Suits, be-
cause if one might have an Action, all Men might
have the like; therefore the Indictment must be, to
the common Nuisance of all the liege Subjects of our
Lord the King.*

Of Nuisances relating to Highways:

*There are three Kinds of Ways; first, a Foot-
way, which is called in Latin, Iter;
Co. Lit. 56. second a Pack and Prime-Way, which
is both Horse and Footway, and called
in Latin, Actus; third a Cart-way, which contains
the other two, and is called in Latin, Via, or A-
ditus, and this is either common to all Men, and
then it is called Via Regia, or belongs to some City
or Town, or private Person, and then it is called
Communis Strata.*

Any

Any one of the said Ways, which is common to all the King's People, whether it lead directly to a Market Town, or only from Town to Town, may be properly called a Highway, and that any such Cart-way may be called the King's Highway, and that a Nuisance in any of the said Ways may be punished by Indictment.

The general Charge of repairing all Highways, lies on the Occupiers of the Lands, in the Parish wherein they are; but it is 1 Rol. Ab. 890 said that the Tenants of the Lands Mach. 26. adjoining, are bound to scour their 1 Vent. 90, Ditches, and there is no Doubt but 183. 189. particular Persons, may be burthened H. P. C. 144. with the particular Charge of repairing a Highway, in two Cases; First, in Respect of an Inclosure of the Land wherein it lies, and Secondly, in Respect of a Prescription: But no such Person can be charged with such a Duty by a general Prescription from 21 Ed. 4. 38. what his Ancestors have done, because no one is bound to do what his Ancestors have done, unless it be for some special Reason, as the having Land descended from such Ancestors, which are bolden by such like Service, &c. Yet it seems that an Indictment charging a Tenant in Fee-simple, with having used of Right to repair such a Way, by Reason of the Tenure of his Keilw. 52. Lands, is certain enough, without ad- Latch. 206- ing, that his Ancestors, or those whose Estate he hath, have always so done, for that it is implied by saying, that he has always used to do it, by Reason of his Tenure. Also an Occupier, as such, though at Will only, is indictable for suffering a House standing upon the High- Salk. 357. way to be ruinous, &c. and the

Words,

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Words, by Reason of his Tenure, &c. if added are Surplus.

However, it seemeth certain, That whether a particular Person is bound to repair a Highway by Inclosure or Prescription, &c. yet the Parish cannot take Advantage of it upon the Plea of Not Guilty, to an Indictment against them for not repairing it, but ought to set forth that Discharge in a special Plea.

1 Mod. 112.

3 Keb. 301.

1 Vent. 256.

There is no Doubt but that all Injuries whatsoever to any Highway, as by digging a

Kitch. 34, 35.

Ditch or making a Hedge overthwart it, or laying Logs of Timber in it, or by doing any other Act which will render it less commodious to the King's People, are public Nuisances at Common Law; and 'tis no Ex-

2 Roll. Ab. 137.

B. 265. C. 2.

cuse for one who layeth such Logs in the Highway, that he laid them only here and there, so that the People might have a Passage by Windings and Turnings through the Logs: Yet it is said to be no Nuisance for the

2 Rol. Ab. 137.

B. 2, 3.

Inhabitants of a Town to unlade Billets, &c. in the Street before their Houses, by Reason of the Necessity of the Case, unless they suffer them to continue there an unreasonable Time after they are unloaded.

It is a Nuisance to suffer the Ditches adjoining to a

Kitch. 34, 35.

Highway, to be foul, by Reason whereof the Highway is impaired; or to suffer the Boughs of Trees growing near the Highway to hang over the Road in such a Manner, as thereby to incommode the Passage: And any Person may justify the Lopping such Trees, so far as to avoid the Nuisance.

By the Common Law, any one may abate a Nuisance to a Highway; and remove the

Materials,

Materials, but not convert them to his own Use : And an Heir at Law may be indicted for continuing an Incroachment, or other Nuisance to a Highway, begun by his Ancestor, because such a Continuance amounts to a new Nuisance.

Every such Indictment should expressly shew, both the Place from which and also the Place to which the Way, supposed to be out of Repair, doth lead; yet Exceptions, for Want of such Certainty, have

sometimes been (b) disallow'd: However, there is no Necessity to (c) shew, that a Highway leads to a Market-town, because every Highway leads from Town to Town. And 'tis necessary, in every such (d) Indictment, expressly to shew, in what Place the Nuisance complained of was done, for which Cause (e) an Indictment for stopping a Way at D, leading from D to C, is not good, for it is impossible that

a Way leading from D should be in D, and no other Place is alledged. Every such Indictment ought also certainly to shew, to what Part of the Highway the Nuisance did extend, as by shewing how many Feet in Length, and how many Feet in Breadth it contained; or otherwise, the Defendant will neither know of the Certainty of the Charge against him, neither will the Court be able to judge of the Greatness of the Offence, in Order to assess a Fine answerable thereto; and upon this Ground it hath been adjudged, that an Indictment for stopping a certain Part of the King's Way at K is naught, for the Uncertainty thereof.

Also it hath been resolved, That the Place wherein such a Nuisance is al-

1 Jon. 222.

Vid. 4. Aff. 3.
2 Rol. A.b. B.
4. 142.

2 Rol. Ab. 81.
Pl. 18.
Palm. 420.

(b) 2 Keb. 715.
718.
3 Keb. 89, 644.
1 Brown 6.

(c) Palm. 389.
2 Ro. Rep.
412.
(d) 3 Keb. 644.
(e) 2 Rol. Ab. 81.
Pl. 18.

Cro. Ja. 324.

2 Rol. Ab. 89.
Pl. 14, 16, 18.

2 Rol. Ab. 81.
Pl. 17.

ledged,

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ledged, is not sufficiently ascertained in such an Indictment, by shewing that it contained so many Feet in Length, and so many Feet in Breadth by Estimation :

And every such Indictment must shew, that the Way, wherein a Nuisance is alledged, is a Way common to all the King's People.

Salk. 359.

6 Mod. 255.

256.

Poph. 206.

That an Indictment against a Man for stopping a Highway in his own Land is good, without laying the Offence done Vi & Armis. Also, That a Presentment

2 Rol. Ab. 79. that a Highway in such a Place is decayed by the Default of the Inhabitants of such a Town is good, without naming any Person in Certainty : But it hath been adjudged, That an Indictment against particular Persons, must especially charge them every one ; for which Cause it hath been resolved, That an Indictment against several

2 Rol. Ab. 81.

Pl. 6, 7.

and that they and each of them did not repair them, is not good.

3 Syd. 149.

That the Defendants ought not to plead, That they ought not to repair, without shewing who ought.

Salk. 358.

6 Mod. 163.

That the Defendants shall not be discharged, by submitting to a Fine, but a Distringas shall go ad Infinitum, till they repair.

Statutes relating to Highways, &c. are the Statute of Winchester, 13 Ed. 1. c. 5. 2 & 3 Ph. & Mar. c. 8. 5 Eliz. c. 13. 18 Eliz. c. 10. 22 Car. 2 c. 12. 3 & 4 W. & Mar. c. 12. 7 & 8 W. 3. c. 29. 8 & 9 W. 3. c. 15. 6 Annæ, c. 29. 9 Annæ, c. 18. 1 Geo. 1. c. 11. 14 Geo. 2. c. 42. 15 Geo. 2. c. 2.

